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SEVENTH MEETING

OF THE

COMMITTEE ON SMALL BUSINESS UNITED STATES SENATE

WITH

MEMBERS

OF THE

COMMITTEE'S NATIONAL ADVISORY COUNCIL

MAY 26, 1988

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ROBERT WIITA, Concord, NH

NATIONAL ADVISORY COUNCIL MEETING

AGENDA

Wednesday, May 25, 1988

1:00 p.m	Council Convenes
1:15–2:00 p.m	The Honorable Robert Ortner Under Secretary for Economic Affairs U.S. Department of Commerce
2:00–2:45 p.m	The Honorable Alan Greenspan Chairman Federal Reserve Board of Governors
2:45–3:00 p.m	Break
3:00–6:00 p.m	Work on Resolutions

Thursday, May 26, 1988

9:00–9:30 a.m	Review Resolutions
9:30–12:00 p.m	Meet With Committee Senators and Vote on Resolutions
12:30–1:45 p.m	Lunch in the Capitol S–207, the Mansfield Room
2:00 p.m	Adjournment

SEVENTH MEETING OF THE NATIONAL ADVISORY COUNCIL TO THE SENATE COMMITTEE ON SMALL BUSINESS

THURSDAY, MAY 26, 1988

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The council met, pursuant to notice, at 9:37 a.m., in room SR-428A, Russell Senate Office Building, Mr. Edward Smith, presiding.

Mr. SMITH. I call the meeting to order.

I would like to welcome everyone here and recognize Senator Boschwitz from Minnesota. I'm glad to have you with us today.

And I would like to start by going around the room and everyone introduce themselves, state your name, your company, type of business, and the tenure of your membership on the council. Let's start with Shaw.

Mr. MUDGE. I'm Shaw Mudge, and we manufacture fragrances here and around the world.

Mr. SMITH. How long have you been on the council?

Mr. MUDGE. Well, since the creation.

Mr. SMITH. Since 1981.

Ms. BYSTROM. My name is Marcia Bystrom. I represent Fenwell Business Machine Shop, and this is my first year on the council.

Mr. SMITH. May I remind everyone? Please talk into the microphone.

Mr. HOPEWELL. I'm Bruce Hopewell. I have a tax and financial consulting firm in New York City, and I've been on the council since the inception.

Mr. FLOSS. Walter Floss. I own an insurance agency near Buffalo, and I've been on since 1981.

Mr. MOHS. Fred Mohs, Madison, WI, lawyer and other businesses. I've been on since 1982.

Mr. BOWDEN. I'm Herb Bowden from Sioux Falls, SD. I'm in the electronic instrument business. And I've been on for five years.

Mr. WIITA. My name is Bob Wiita. I'm from Concord, NH. I own a small real estate business.

I met with Senator Rudman this morning. He was up till midnight on the INF treaty and says he won't probably be by this morning, but wishes us good luck.

Mr. LANSING. I'm Ray Lansing, president of Ray Lansing Advertising and Public Relations, Cheyenne, WY. This is my first year on the council.

Ms. MORROW. Laverne Morrow, St. Louis, MO, president and chief consultant of Emprise Designs, Inc., new member to the council. council.

Ms. WEIHE. Gwen Weihe, president of Shopping Trips, a specialty and mail order store, first year on the council.

Senator BOSCHWITZ. From Norfolk, NE.

Ms. WEIHE. Yes, from Nebraska.

Mr. DENNIS. Daniel Dennis, managing partner of Daniel Dennis and Company, Certified Public Accounts, of Boston, MA. This is my first year on the council.

Ms. SAXON. My name is Frederica Saxon. I'm with the Berkshire Corporation in Baltimore. That's a real estate development company, and I have just completed a term as president of the Baltimore County Chamber of Commerce. This is my first year on the council.

Ms. BALL. Asta Ball, Newington, CT, domestic manufacturer of screws, nuts, and bolts. This is my third term.

Ms. MCCOY. Judy McCoy, McCoy Goldsmith and Jewelers. We do customized gold work in Dubuque, IA. I've served on the council since 1985.

Mr. FINE. Tim Fine, from San Francisco, CA. I'm the principal in the law offices of Timothy H. Fine which specializes in the representation of small businesses, particularly dealers, distributors, and franchisees. I've been on the council since 1983.

Mr. WILKINSON. I'm Tony Wilkinson. I'm with the Stillwater National Bank in Stillwater, OK. I'm president of the National Association of Government Guaranteed Lenders. This is my first year on the council.

Ms. ABLAN. I'm Thelma Ablan from Chicago, IL. I have a management consulting business, and I have been on the council since 1984.

Mr. LEFKIADES. I'm Michael Lefkiades from Bay City, MI, and I own a chain of fast food restaurants in Michigan.

Mr. BALL. I'm John Ball. I'm the staff director of the Committee.

Mr. SMITH. I'm Ed Smith with Smith Paper Company in Pine Bluff, AR. I've been on the council since 1986.

We would like to recognize Senator Bond from Missouri who has joined us, and next I would like to ask Senator Boschwitz if he would like to make a few comments.

Senator BOSCHWITZ. I'm Rudy Boschwitz from Minnesota. I think I'm the only small businessman, I might say on the Small Business Committee, one of the few businessmen in the U.S. Senate. And I founded a company called Plywood Minnesota that operated in Chicago where Thelma is from and in Norfolk, NE, though we changed our name. I sold it after I came to the Senate.

If you ever run for the U.S. Senate or the Congress, and you are successful and you have to move your family and everybody 1,200 miles away, and then you say, well, I'll leave my business in the hands of people who are trained over the many years—15 years I was in business—and they are going to carry on in the great tradition that I established, just sell the business. Don't fool yourself because that's not going to happen.

And my business included places also in Dubuque where we still own real estate, and in Sioux Falls where we still own real estate that are represented here this morning. My business went from 68

warehouse stores down to 9 in my absence and in my son's. If you have sons or daughters or somebody, then the rule varies. But they became of age, which was 23 and 22, and the business that was doing about $80 million was down to $19 million. And now they have built it back up again. So, that's just a little bit of advice.

My wife is also involved in the business. Now, I travel back and forth incessantly 40 to 45 times a year. But it's OK.

Mr. SMITH. Thank you.

Senator Bond, would you like to make a comment?

Senator BOND. I'd be happy to. It looks like we are a little short on microphones at this distance, but I have never been accused of being soft-spoken or——

Senator BOSCHWITZ. Nor am I going to accuse you of that.

Senator BOND. That would be a classic example of the pot calling the kettle black. [Laughter.]

I am Kit Bond. I'm the chief financial officer and legal advisor to a small business, Carolyn Bond Interiors [laughter] which had some very successful years, but we have found moving business operations from Kansas City to Missouri to Washington, DC, is not an easy change. And I regretfully report that our business successes since we have moved to Washington are even worse than Boschwitz' plywood companies.

I do want to express my sincere thanks to all the members of this council. I know you are busy people or you wouldn't be on the council, and when we need good advice, we go to people who are busy, who are dedicated, who are working in small businesses who are making them succeed, who are providing the jobs and the economic growth that fuels this country. I think that this council has a tremendous opportunity to give the guidance and direction that this Committee sorely needs.

We work and live inside the beltway, and there's a little bit of a problem. I used to rant and rail against it when I was a State official saying those inside the beltway don't know what is going on out here. Now that I have lived inside the beltway, I found the problem. There is so much going on that we have to deal with on a day-to-day basis where we get wrapped in the inside-the-beltway mentality, not to mention reading the same newspapers and the same materials that everybody else here reads.

Too often we think that as a small business committee the only thing we hear about are the mechanical problems, the day-to-day operations of the Small Business Administration. We recognize the importance of that organization and the service it can provide. But, as I speak to small business people throughout my State of Missouri, I find that there are many, many pressing problems that affect, or maybe we should even say afflict, small business that go beyond the administration of one Government agency.

You have an opportunity, and I would say a responsibility, to help us establish our perspective to make sure we focus on the things that are critical to small businesses in your States. Very often I expect that anytime you have an Advisory Committee, they don't always tell you things that you want to hear. But to the extent that you are able to—and I can think of no better qualified group to do so—to the extent that you can help us focus on the

items of concern to small businesses, you will be enabling us to do our job much better.

My good friend Laverne has never been shy about sharing her opinions with me. I found out a number of instances where I have been wrong, and we thank you for your time and your candor because without it, we can't do our job.

Thank you.

Mr. SMITH. Thank you, Senator Bond.

Senator BOSCHWITZ. I would like to comment on several of your resolutions that I see here before me. I see a whole bunch of them, but if I may just comment on them.

I see that you are going to talk about mandated benefits and the minimum wage. And I know I hear that some of you are from rural parts of the country, and the situation there is a good deal different probably in Pine Bluff or in Norfolk than it is in Minneapolis or Chicago. I hope you will address that aspect of the problem as well because we are going to get an increase in the minimum wage in my judgment. If you look at the makeup of the Congress—and perhaps we should be prepared for that and perhaps there should be some exceptions rather than just coming out for or against that particular provision. And it looks like from your resolution, a quick reading says that you are going to be against it.

I also note that you have a resolution with respect to the Loan Program and the possibility of increasing the maximum guarantee amount, which is something I would also be supportive of. I would hope that you would put some emphasis on smaller loans as well because, very frankly, I tried to get the Small Business Administration to consider making loans to child care providers, $3,000, $4,000, $5,000 loans. And frankly, some of them are women; some of them are single women. You know, if I had started my business and if I were a woman, as I have often told Marcia, I would have had more trouble. But I am convinced that I would have had more trouble in 1988 obtaining a loan if I were a woman. If I were Laverne, a black woman, I think I would have even more problems obtaining loans. And these people who want to make very small loans I think have difficulties and the Small Business Administration finds the loans too small to get involved with, of all things. If they don't, who will?

And give us hell on the deficit. I think we deserve it.

And the other stuff about mandated benefits I don't think is going to come up this year but we also could stand a little advice in that regard.

I would say, in closing, Mr. Chairman, that there is a greater regard, very frankly, given to this council and to small business than to big business. Big business is better organized. They normally have their own people here in Washington. They have their own lobbyists. They have the money, and they find it in their interest to spend enough money to have lobbyists and an office, and so forth, because there is enough going on here that they can justify it. Very few small businesses do, and I find that small business associations are normally so rent in different directions by the various memberships that they are not nearly as effective as a single company seeking more singular types of goals.

So, be precise, if you will, and don't be too general, if I may give you that advice. And don't spend too much time on English as the official language and stuff like that. Give us advice about business and recognize that advice coming from small businessmen is heeded here more than advice coming from people who we think, with some justification, have very narrow interests. Small businessmen create most of the jobs and really do have a lot to offer us.

Thank you for allowing me to expand.

Mr. SMITH. Thank you, Senator Boschwitz.

I now would like to take a moment. Everyone knows that the political winds change as we talked about yesterday, and as they do, chairmanships often and most of the time change with them. Yesterday I was fortunate enough to be elected by this council as the new chairman, but in the process, Shaw Mudge who was the chairman of this council from its inception in 1981, left the position of chairman. And in recognition of that, I would like to present Shaw a plaque on behalf of the National Advisory Council to the Senate Committee on Small Business. And it reads: "National Advisory Council of the United States Senate Small Business Committee, presented to Shaw Mudge with sincere appreciation for your outstanding service and contributions to the betterment of small business as council chairman from 1981 to 1986." Shaw.

[Applause.]

Mr. MUDGE. This represents all our work, doesn't it? And it's recognition for all of us who have given so much over the years. We all know what we've done, and Thelma, Mike, Walter, and Bruce have been with me since the first White House conference.

This is the most effective committee I think of all. A lot of input comes from us. There is the NSBU and all the other groups, the local chambers and whatever. Whatever associations people belong to all come down here. As Senator Boschwitz indicated, I think it is the most effective of all the opportunities we have to express ourselves. Thanks a million.

[Applause.]

Mr. SMITH. We will need to begin on the resolutions as time is clicking away fast and considering we have 18 resolutions to cover. The Senate Small Business Committee staff is now passing out a list in order of those that we will cover, and we will start with Ray Lansing's resolution, the one he sponsored on mandated benefits. Ray.

Mr. LANSING. Mr. Chairman, I think Herb was going to cover that one.

Mr. BOWDEN. I think my name is on the resolution and his name is on the agenda.

Mr. SMITH. I'm sorry.

Mr. BOWDEN. I'm Herb Bowden from the committee on mandated benefits.

Resolution of the National Advisory Council on Mandated Benefits. I will read this with little comments, and if anybody wishes to make a comment afterward, please do.

Whereas, Congress has become more intrigued in introducing and pursuing noncompetitive, costly, and prohibitive business legislation in the forms of mandated benefits and/or policies which are required as part of doing business, such as family and medical leave, right-to-know legislation, expanded medical insurance, equal op-

portunity legislation, advance notice of plant closings, and such proposals would put a sizeable burden on small businesses which cannot comply easily; and

Whereas, left on their own, the majority of small business employers will handle these matters in a sensible way so as to meet the needs of both their businesses and their employees, and are free to make business decisions or select compensation packages appropriate for their employees, based on their type of business and region. Further, much of this legislation, which is specifically designed to reduce individual economic responsibility.

I would like to underline that part—"to reduce individual economic responsibility"

of the employee, is simply transferred to the shoulders of the business person.

These artificial costs of doing business tend to make many small businesses noncompetitive. Further, these fixed costs greatly interfere with the supply-and-demand equation and present an obstacle to operating a business as a free enterprise establishment.

These costs not only affect business but jeopardize the jobs of the people that they are designed to protect by greatly reducing entry level jobs and increasingly causing many small business people to become reluctant to hire people on a full-time permanent basis. And as we know, temporary employment is increasing rapidly to offset that.

Whereas, there is a trend of Congress intervening more and more into these areas of restrictive legislation; and

Whereas, it has been clearly shown over the years that the most efficient mechanism with which to distribute goods and services in and to our economy is through open-market, supply-and-demand mechanisms;

And now, therefore be it resolved that the National Advisory Council to the Senate Committee on Small Business urge the committee to oppose mandated benefits for small business and to work to find ways for small business to better afford employee benefits under the free enterprise system.

And I believe that speaks for itself and is all inclusive.

Mr. SMITH. Discussion?

I would like to note. Isn't this the resolution that Senator Boschwitz commented on a minute ago about not just saying no, we oppose it, but no, we oppose it, but if it is necessary, give some conditions or levels of—Herb.

Mr. BOWDEN. I believe, Mr. Chairman, that that is on the minimum wage, which he will have.

Mr. SMITH. OK. I thought that was also on the mandated benefits.

Mr. BOWDEN. No. We put it over there.

Mr. SMITH. OK.

Mr. LANSING. I believe it's on this one also, Mr. Chairman. It is contained in the last sentence that we work to find ways as a direction to the committee. We work to find ways to better afford employee benefits without spelling out the ways. We are willing to do that and that is why we put that last sentence in there.

Mr. BOWDEN. I might just make an overall comment, Mr. Chairman. As I worked on this last evening, the more that I interface with business people and the more I see their real intent, the more I fully realize and respect the free enterprise system. We can relate with our employees in a much better way as person-to-person than we can by mandated legislation.

Mr. SMITH. OK.

I would like to pause here for a minute to recognize Senator Weicker from Connecticut who has joined us. Glad to have you.

Senator WEICKER. Thank you very much, Ed.

It is fortuitous that I came in here during this discussion because I'm one of the coauthors of the legislation.

Now, I guess a good starting point is your resolution. And this is the first time I have seen it, but I know I refer to its last sentence.

Now, therefore be it resolved the National Advisory Council of the Senate Committee on Small Business urges the committee to oppose mandated benefits for small business and to work to find ways for small business to better afford employee benefits under the free enterprise system.

Now, let me set that aside for a minute and give you a comment that was made by a very good friend of mine who as head of one of the insurance companies in Hartford, wrote me a letter opposing mandated benefits. In his letter, he said, Lowell, the present system has served us well.

Now, the problem with this resolution and the problem with that statement is the present system serves my friend and myself well, but it doesn't serve 38 million Americans. The reason why we have this legislation is due to the fact that the free enterprise system has not worked out something to supply these employee benefits.

Now, let's leave our philosophy aside and move to another aspect of the situation. If anybody thinks the 24 million working Americans are going to stay uninsured, most of whom are in small business, and therefore, I might add, their health care paid for, albeit mostly inadequate coverage, by either volunteer services of the local hospitals or the big insurer, the big companies—forget it. Politically it is not going to happen. That is why when Senator Kennedy and I started down this road in drafting the legislation, we actively sought out and invited representatives of small business groups and the insurers and everybody else to participate in the construction of the legislation. Nobody wanted to shut them out. We wanted their active participation. And it's fair to say to all those groups—they said, well, we'll participate, but we're not going to approve any bill.

When I was a member of the Connecticut State legislature back in 1963, the issue of Medicare first arose and, indeed, Medicaid became the center of attention. And I remember the opposition of all the insurance companies to the proposal. As a result they excluded themselves from the process and Medicaid came into being without any advice or participation by the private sector. Well, they learned their lesson. By the time we got around to Medicare, they wanted to be actively involved, and they were.

Now, the fact is that you have this problem sitting out there. It's not going to go away. Indeed, if most of you read your Washington Post this morning, you've got your new catastrophic health care coming along. Mandated health insurance is the next item on the agenda.

And the only question is, do you want to be a part of the process? Do you want to be a part of drafting the legislation, and having your input as to how you would like to see this come to pass? Or do you want to oppose it and have it rammed down your throat, to use, very frankly, the toughest terms possible only to make my friends in small business realize this isn't an academic exercise? I appreciate the philosophy that you hold of wanting to stay free of Government which is exactly why the legislation was drafted the way it was to be executed through the private sector, but we also made sure that your health insurance premiums were completely deductible.

Quite frankly, this is my toughest job as a Republican both vis-a-vis my party, and as one who believes so firmly in the free enterprise system and the free market, and most particularly in the role that small business plays. And I am determined to somehow get you to realize that you just can't freeze yourselves out of the legislative process.

I'm not interested in winning philosophical battles. After I introduced the legislation, I was labeled an enemy of small business by the National Federation of Independent Business. I'd say there was a little credibility gap here since I was the guy who saved the Small Business Administration and the various programs that I think most around this table would agree are the good programs of the Small Business Administration. Because we disagree on this point, I'm the enemy of small business? No, I'm your best friend.

I don't expect you all to be here in the Congress 365 days a year. You can't do that because you're running a business. But you have friends here and that's my job. And I would be a bad friend to every one of you if I said, number one, this is something you're going to be able to block forever and ever, or that it isn't going to happen, or that it shouldn't happen. That's not a friend. That's just allowing you to fall down, get hit, and most likely pretty hard when the resolution of the problem comes.

So, having said all of this, am I so sure of the road that I travel on health care? I'm not sure of it. As a matter of fact, one thing that upsets me right now is the fact that we have so many good intentions being put into legislation when it comes to health, health care, and health care costs. And I really think the time has come for this Nation to have a health policy so that we get all these things dovetailing and making sense. Rather than Weicker's mandated health benefits, catastrophic health insurance, fiddling around with Medicare, you know, the various disjointed efforts all going on alone, it would please me if we had a national commission to go ahead and pull everything together so there would be a national health policy.

But I've got to tell you it would really be nice to see small business say, OK, there is a problem out here. Part of it is our problem, and we want to have a hand in how it is going to be resolved rather than just saying no. The one thing that I can tell you as your friend is Congress is going to take action on this issue. We're all agreed around the table it is not going to be resolved this year, but it's going to be resolved.

Mr. BOWDEN. Mr. Chairman, may I respond to that just briefly since I presented it?

Senator WEICKER. Please do.

Mr. BOWDEN. One thing that I am pointing out, Senator, is we are the people who just came out of the trenches and we do respond to our employees. The first thought of this issue is that it was perhaps the feeling of the small business people that they wouldn't respond to the employee's needs.

This year in our company—we have roughly 300 employees—we had our annual meeting and had employees' groups in to talk to us. One of the issues that we decided to increase was this very medical benefits, catastrophic insurance and how much we would pick up for employees. The other one was a pay increase, and the third

one was off the Friday after Thanksgiving. And so, when we announced at the annual meeting that we were making these increases, there wasn't even an applause. When we got to the increase in salary, immediate cash, we had a round of applause, and when we said the Friday off after Thanksgiving, we got a standing ovation.

Now, this is contrary to what you might think. You may say the small businessman is doing that, but we are attempting to respond to what our people's needs are. And a lot of the people—particularly younger people—are responding to short-term, cash-ready type items.

Senator WEICKER. But who has to pick up the tab for those that are uninsured? I'm not saying in your business. Out of the 38 million people without health insurance, 24 million are workers or their dependents. How do we respond to those people who, in other words, have no health insurance?

Mr. BOWDEN. I'm just pointing out we are in our group responding to the desire of those people at that point.

Senator WEICKER. Never mind the desire of the people. I could understand a lot of people saying, gee, I'd rather have the cash in my hand. I'd rather have a day off. A lot of people will say that because they figure I'm not going to get sick. That's out there. Then they get sick.

Why should it be the taxpayers of the Nation as a whole or the local hospital? Why should that tab be picked up? I don't understand. We're not going to leave them in the street to die. That I can tell you right now.

Mr. SMITH. I would like to add here to what Herb said. I think the biggest reason that 20 million to 24 million are uninsured is not because small business does not want to insure those people. It's because they cannot afford it. In my business, we are slowly but surely increasing the benefits to our employees as we can afford to do so or as we can find means that will justify affording to do so. It is not because we do not want to. We have to stay competitive in the market of employees with our competition and with our neighboring businesses. And if we don't provide as many benefits as the competition does, and meet the needs of our employees, we will lose those good employees, the investment we put into them to train them. And when the mandate is shoved down our throat, what you are doing is putting a lot of borderline small businesses out of business.

Senator WEICKER. All right, fair enough.

Ms. MORROW. I have a——

Senator WEICKER. Let me just finish the response.

Ms. MORROW. I have a view in support of what you say.

Senator WEICKER. Let me go ahead then and explain.

Then say we don't want it because it is going to put a lot of us out of business and until we get on our feet, the rest of the Nation, please take care of our problem—that's fair enough—rather than saying, we don't want Government interfering in our freedom. That's a lot of nonsense. You probably stated a very good reason. You can't afford it. Fair enough. You can't afford it. Say so, rather than just saying we don't want Government interfering in our freedoms.

Ms. MORROW. I want to come at it from another way. I don't wear my race nor my sex on my sleeve, but in this case, as a black female, I was told there are prices that you pay. And when I decided to go in business, I was told it would be a risk, and there would be certain responsibilities that you would have to take.

My company grosses $150,000 a year. I have four employees. I pay health insurance for them because I come from a different place where my mother was on welfare and we grew up dealing with the health care issue. And I don't want those women who work for me and have children to do that. So, as a business owner, knowing that I have to take risks, knowing that I always live on the edge, that's a decision that I made. And I think that's another side of it. And I voted nay against the mandated resolution. I don't make a lot of money, smaller than small, but I do provide health care coverage for my employees because where I come from, I see folks having no health care and what that looks like when people cannot afford it. That's my opinion, and I voted. I have a different point because I come from a different place. And I hear what Senator Weicker is saying.

You know, we talk about the fair market in the capitalistic society. There are many consequences of being in business and many costs that we all incur, and I think that is one of them. And that's my opinion.

Mr. SMITH. Fred.

Mr. MOHS. I would like to speak for businesses that are really small businesses. And what we are talking about here is really not going out of business, but getting into business, for instance, a cleaning service. A man who has been working for a cleaning service decides he might be able to start that on his own, so he gets someone to let him clean their offices, gets a little bigger, figures out how to have his grandma come over and take care of the kids so then the wife can come in with him at night, and they clean offices together. And then they get another one, and think they will hire her girlfriend's son, and all of a sudden they have to figure out how to make out a payroll and how to pay that tax.

Now, all these people are not brilliant. As a matter of fact, some of them are far from brilliant. But they are people who want to carve out their little piece of the American dream. Businesses like this go into business and go out of business by the thousands daily. A lot of these people fail.

But I am concerned that we make it tough, so tough for these people who are coming in and out of business to comply with the rules and regulations and requirements that they just can't even think of doing it. Many of these people hire people that are maybe not legally disadvantaged, but nobody would hire them. I mean, these people get low wages. They get no benefits. But frankly, they have to be followed around all the time to make sure they don't screw up. And that is the way a lot of young people, a lot of very ordinary people, start out in business.

When they get richer, when they get more successful, they can afford to hire better people. They can afford to give them health insurance and make their lives one whole heck of a lot easier. But when they are starting out, this is a burden. So, it just isn't a matter of not being able to afford it for businesses who don't have

the profit margin; it's for these starting-out businesses that we should have a concern for.

Senator WEICKER. You know, under the legislation for businesses with five employees or less, the provisions are phased-in.

Mr. MOHS. Yes, which I think is a good thing. I do want to state that.

Mr. FINE. Is there any chance, Senator, that that level would be increased to, say, like with COBRA, which is 20 employees or less?

Senator WEICKER. Sure. Tim, we all know the legislation is not going to pass this year which means we have plenty of time for those that want to sit down and say, hey, just like the suggestion you made, should it be increased to 20. And maybe it is that it will end up at 15. I mean, I don't know, but nobody ever claimed pride of authorship in this business to the point where people were excluded.

And all I am trying to say in my plea today is to reserve your judgment and use the intervening time to see whether you can make something better out of this in terms of the specifics and aside from a general philosophical statement. And I am more than willing, as I know Senator Kennedy is, to sit down with small business groups. Take this group right here. Instead, of having a resolution saying we're against it, what about a resolution that says, OK, within the next 3 or 4 months' or 6 months' time, we are coming back to you with specific suggestions as to how we think this legislation can be improved. You don't commit yourself to it, but just the type of individual suggestions that might come from members around the table. I have no problem with that, and this is the time to do it. The only thing I am telling you and almost begging you as your friend, don't just say no because at that stage of the game it is going to get imposed without any of your input.

Mr. FINE. We had a debate and that was the thing I urged. This thing is going to come to pass as the sun comes up in the morning. And what we need to do is refine it to the point where it is compatible with small business in the best possible ways.

Senator WEICKER. I think if you ask me for a suggestion—and I have to run because I have to chair a Labor, Health and Human Services Appropriations hearing—I wouldn't say no. What I would say is without approving of mandated health benefits, we feel we need 6 months' time during which we would like to go ahead and address provisions of the bill that we find difficult or can be improved so that in no way do you even commit yourself to the concept. But if this group can't go ahead and have their input to make it better legislation, nobody can. You're right. You are the guys in the trenches on the front lines. Here is a project, instead of just meeting and going over some general subject, where I think we really need your assistance is in saying what have we done wrong here.

Now, the one thing I can't combat—I am the first one to admit—is that general philosophical attitude, we don't want Government interfering with us. And if it comes down to that, fair enough, because I'm not asking you even to commit to a final product. Nothing would give me greater pleasure, however, than to see the type of suggestion that Tim has made here as to where things are bad and where they can be made better.

I just want you all to know that—again, I repeat—this issue was certainly one that should be raised. It has been raised against me, and I don't mind. I've got to tell you. The silly part about all of this is that in a State like Connecticut—it's almost a plus to be belabored over this issue because I think all Americans are very conscious of health care cost and health care.

Yes?

Ms. BYSTROM. I would just like to respond. I think one of the problems that we have at least back home—and I don't know if Minnesota is that different than other states regarding small business—is an issue of strategy and a little bit of distress of the political system.

Senator WEICKER. Sure.

Ms. BYSTROM. We're always afraid that we are willing to make some concessions, but if you give an inch, you know, you've lost it all. And I think sometimes, not just on this issue, but on many issues, we have this tough stand because we are afraid to expose how much we are willing to give, and it might be 5 percent or 10 percent, whatever. But I think it's more strategy oftentimes that we come out with these very tough stands because we distress the process that these bills get done through the system. And, you know, we talked yesterday, and many of us back home have talked I'm sure, about things we would be willing to recommend that would make sense, but we're afraid we're going to lose the whole game and that there are going to be more and more mandates coming down the road and this is opening the door.

Senator WEICKER. That's why I indicated to you that if as you are helping in the process, there is no reason why you can't maintain your opposition to what is being done here. However, at least you can say, I gave them my best thoughts on the matter. And there we are.

Unfortunately, we have the public witnesses hearing of the National Institutes of Health, which I have to Chair. They have all been waiting there, and that's the reason why I have to depart from you. But I see you have a meaty schedule here.

And I leave my good friends, Asta and Shaw, behind not, I might add, to advocate my position because I tell you both of them tell it like it is. They are not afraid to go ahead and speak their minds—and they will. So, they in no way are surrogates for my point of view. They agree with me sometime; they disagree with me sometime.

But I can't tell you what a pleasure this is. I know what an effort it is for each one of you to come here. And there are some matters on which we really do need your input. And I'm glad we've had this discussion. Now, I'll get out of the room and you can all sit here and grind your teeth—[laughter]—and cast aspersions on my good name. Don't let it worry you because the Republican party does this to me all the time. [Laughter.]

I'm still alive and well.

Mr. SMITH. Thank you, Senator Weicker.

[Applause.]

Mr. SMITH. Herb is a member of the amending committee for this resolution from last night. Could I suggest an addition to add on at the end of the "Now, therefore, be it resolved" to say: "If any

are enacted, they should be designed in order to protect those businesses who do not have the financial stability to support such mandates"?

Mr. BOWDEN. I would like to leave it stand.

Mr. SMITH. I think we took the stance on the minimum wage resolution, and I think it might be a smart thing to do here. We realize, according to Senator Weicker, that some of these mandates are going to be enacted. So, what we need to do is realize that, first of all, we are saying that we urge the committee to oppose it. But then we go on to say but if they are necessary, then protect the small businesses who cannot afford it.

Mr. FLOSS. You should make a motion to amend, if you want to, so we'll have something to vote on.

Mr. SMITH. OK, I'll make a motion to that effect.

Mr. MUDGE. I second it.

Mr. SMITH. Discussion?

Mr. DENNIS. I think we are just begging the issue. We're not doing at all what the Senator asked us for. I mean, what he is really saying is, hey, guys, come back in a shirtsleeve session, look at this thing and give us some advice. And we've got to decide whether or not we want input on this resolution which may mean another meeting, coming back, focusing just on this issue. That's what the issue is. Another philosophical statement isn't going to mean anything. I don't care how you pretty up the resolution. It's not going to take care of the cooperative assistance that was asked for.

Mr. SMITH. Freddie?

Ms. SAXON. I know there is a motion on the floor, so I will suggest that those of us who want to have input into this issue meet again at the appropriate time, and do discuss it, and do see if we can come up with constructive suggestions.

Mr. SMITH. Thank you, Freddie.

Michael?

Mr. LEFKIADES. I feel that this issue is too complex and a lot of preliminary and logistical work has to be done in order for us to discuss this issue in depth. I don't think we can do it at this time. I would make a motion that this council reconvene within 6 months again to address the specific item of mandated benefits.

Mr. SMITH. There is currently a motion on the floor.

Mr. LEFKIADES. Because it is too complex to do it right now. We don't have the time. In the meanwhile, all the members should do their research, should do their reading. They should do their homework so we can come back all prepared to discuss these particular issues and perhaps some other issues should they come up.

Ms. MORROW. Mr. Chairman, could we withdraw the motion and entertain what Freddie and Dan are both saying because I think that given what we have heard, it might be the direction to go. But there is a motion on the floor, as I understand.

Mr. SMITH. Right. There is a motion on the floor to add this addendum to the resolution. In my opinion for the time being, until we can come back together and discuss this in more detail, I feel like this improves the resolution. It allows us to state that, as Senator Weicker said, we're not just saying no. In his words he said do not say no.

Ms. MORROW. We're not saying no. But if we're going to do an amendment, maybe that ought to say, if we are making a commitment to come back to work, which I'm committed to it, to gather the information, that then needs to be in there. And what I heard him saying is don't shove it on us. You all take some responsibility and make some specific recommendations.

Mr. SMITH. Herb?

Mr. BOWDEN. Mr. Chairman, I don't think it's up to us to make the laws. I think they need to hear from us and we feel that we can do this better if they would look into ways for us to do this through the free enterprise system rather than so-called jamming it down somebody's throat.

Mr. DENNIS. I think the problem is that free enterprise system hasn't taken care of it.

Mr. BOWDEN. But have they given it an opportunity to?

Mr. DENNIS. The free enterprise system has been around since 1750 probably.

But the point I guess that I was trying to make—I'm always trying to figure out who I represent here. I always represent somebody. I guess I'm representing Senator Kerry.

In fact, actually I'm against this amendment. I really do think that you really have to look at your employees and see how you can take care of them. And I think business people have taken a tough stand. I think the time for a tough stand is over with. I think we ought to sit down, look at these issues in some detail to provide the assistance which is the purpose of this committee.

Ms. MORROW. And it has been requested.

Mr. DENNIS. And I think we are responding to it.

Ms. MORROW. We seem to have a mindset of toss it on the legislators, let them figure it out. I don't see democracy as being that way. As small businessowners from across this country, we have been given the opportunity to have a voice. We have been requested to take a look and come back and make some suggestions because folks don't know, and I think we ought to answer that call.

Mr. SMITH. Ray?

Mr. LANSING. Mr. Chairman, since this is one of my original resolutions, I would like just to comment on it. I happen to agree with both sides on this issue, but I believe the name of the game is compromise, to work out the best solutions. And for my part, I would be willing to change the resolution to the point where we could get some input because I hear what they are saying. And I think we all agreed yesterday that instead of just making statements, we ought to offer some solutions. As long as the resolution would be in effect or even superseded by some further research, I would go along with the change to come back later and offer some specific solutions.

Mr. SMITH. OK.

Copies of S. 1265, which was reported on yesterday, are on their way. Hopefully they will give us some more information.

As the one who made the motion, I like what Michael and the rest of you said. I think it makes sense, but I do not think it means that we cannot—we have to have one or the other. I would like to amend my motion to include what I read a minute ago and also have a second resolve to include Michael's suggestion that we re-

convene at a later date as soon as possible in order to further discuss this and viable solutions to the problem.

Ms. SAXON. Mr. Chairman, I think we will have to vote on those two issues separately. I do not think that they are the same. And, therefore, I would like to vote on your original motion. I guess as a point of parliamentary procedure, we would vote on the amendment first and then on the original motion.

Mr. SMITH. Questions?

[No response.]

Mr. SMITH. Those in favor of voting on this at this time, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. OK, it passes.

Mr. BOWDEN. I would like to take a second to introduce Senator Pressler.

Senator PRESSLER. Thank you very much. I am honored to be here and honored to be with my constituent, Herb Bowden. Thank you all for your input. I think it is very important. I tend to agree very much with Herb on the mandated benefits issue. I don't know what action this council is going to take, but I look forward to your recommendations.

I'm glad to be here, and I apologize for being rushed. I've been on the Senate floor where I have an amendment up for consideration, and I have two committee meetings in progress. I'll be listening closely and reading your final report with great interest.

Mr. SMITH. Thank you, Senator Pressler.

Ms. MORROW. Could you clarify what passed?

Mr. SMITH. We're voting on my motion. We're voting on the following added to the existing "therefore, be it resolved." "If any are enacted, they should be designed in order to protect those businesses who do not have the financial stability to support such mandates." We will now vote on that motion alone after which, if Michael or anyone else would like to make another motion, we may do so at that time.

We have called for the question. We'll now vote. All those in favor of this motion, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[Chorus of noes.]

Mr. SMITH. We're going to have to take a hand count. Those in favor of the motion, raise your hand.

[Show of hands.]

Mr. SMITH. And those opposed, the same.

[Show of hands.]

Mr. SMITH. Obviously, it failed.

I'll entertain any other motions.

Mr. FINE. I will make a motion that because of the seriousness of this issue and the need for further study and the advice of Senator Weicker that if it is going to pass, we really participate in the process to make it conform to the needs of small business, that there be a study committee set up which will consider ways of tailoring this to meet the needs of small business in the event of passage, and that this committee report back to us within 6 months.

Ms. FLOSS. Excuse me. On that point, we have a resolution here we're voting on. You have voted to amend. That was just defeated. Now we are back to the original draft. Now, you're making a whole new resolution.

Mr. FINE. No, it's an amendment.

Ms. MORROW. It's a proposal. So, we can go back to the original. We are now back to the original, as Herb read it.

Mr. SMITH. Unless there is another motion to amend it.

Mr. FINE. That's exactly what I made.

Mr. HOPEWELL. I second your motion. I would like to throw this out for general discussion and study and come back to see how we can effect better legislation.

Mr. SMITH. Within 6 months?

Mr. HOPEWELL. Within 6 months.

Mr. FINE. Six months. In other words, the resolution will pass, but it will also have this position that we add to it within 6 months our position, in case it's going to pass, how to conform it to meet the needs of small business.

Ms. MORROW. We have the language here. We said we oppose the mandated benefits for small business. We are telling the committee to work to find ways. And, in essence, we are now going to take that responsibility I think via the study group or committee. So, it's just placing the burden on us to come up with the suggestions. The language is there.

Mr. LEFKIADES. Mr. Chairman.

Mr. SMITH. Yes, Michael.

Mr. LEFKIADES. I have a motion on the floor and this is what it says that in view of Senator Weicker's remarks, this issue is too complex and the motion is to reconvene this council as soon as possible to specifically study and offer specific recommendations. That's the issue on the floor. I don't say 6 months because in 6 months there will be an election coming up. But as soon as it is possible, as soon as the committee staff feels it is feasible, then we should reconvene to discuss the specific issue.

Mr. FLOSS. Mr. Chairman, we came here to make an expression on behalf of small business, and I think that at least as a result of this meeting we all agreed that that was a resolution that we wanted to do. I still think it is our expression. So, whatever they do in the interim time—we may not be called back for another year—then at least we have on the table that as of right now we don't want to be burdened with mandated benefits, and that's an expression. The Senator said they probably won't do it this year. It will be done next year. So, then maybe at that time we will have something that we can pick apart and look to compromises.

But right now I think we should vote on Herb's resolution. If you want to make the expression, we vote it up, and if you don't want to make the expression, you vote it down. I think we are muddying it up so nobody will know what they are voting on and they won't be able to vote.

Mr. SMITH. Asta.

Ms. BALL. Mr. Chairman, I explicitly expressed my thoughts on that issue yesterday. I would say, however, that with all the other resolutions that are ahead of us—and we are really, really running

out of time—that perhaps we should give due cause to all the other resolutions that we have not discussed yet.

Mr. SMITH. OK.

Herb.

Mr. BOWDEN. Just as a proposal of this resolution, Mr. Chairman, I would like to see it voted on. I would like to see us stick to our guns. And you may use your prerogative of the Chair to call a committee together to study or whatever you'd like. It does not have to be a part of this resolution.

Mr. SMITH. All right. There is a motion on the floor. And has it been seconded?

Mr. FLOSS. I'll second it.

Mr. SMITH. There's a second to Tim's motion. Tim's motion was made prior to Michael's.

Mr. FINE. That's right.

Ms. MCCOY. And Bruce seconded that.

Mr. SMITH. All right. So, we have a motion and a second.

Mr. FLOSS. I'm not seconding that motion. I thought we were calling the resolution.

Mr. FINE. No. The amendment must be voted on ahead of time.

Mr. SMITH. We do have a second on the motion from Bruce.

Ms. BALL. Tim, were you moving to amend the resolution or did you intend to simply move that a subcommittee be appointed to study this issue?

Mr. FINE. I moved to amend the resolution to provide—and it doesn't require us being called together. It merely provides that this resolution be amended by having a subcommittee of this advisory council get together and report back in 6 months on ways to tailor these mandated health benefits to the needs of small business, bearing in mind that it has a likelihood of passage so that we protect our interests.

Mr. MUDGE. Six months will be in the middle of November. Is that what you mean? Do you want the middle of November considering elections and new sessions and everything?

Mr. FINE. I'll say by December 31, 1988. And it can be a written report. The people can get together by telephone. We don't have to have a meeting, but when this Congress adjourns in January, we need to get in on the process if we're going to have input rather than stick our heads in the sand.

Mr. FLOSS. I think that's a separate resolution the way I look at it. We are trying to express ourselves with a strong statement, and then we take and confuse it as though we didn't make the statement, and say we want to come back in 6 months and do it different. So, why make the expression at all? I think we have two resolutions. Let's vote Herb's up or down and you make a new resolution which we could vote on.

Mr. SMITH. Marcia?

Ms. BYSTROM. I have just a technical issue. I would like to suggest a friendly amendment that the council as a whole be asked to come back because a task force will have no authority to speak on behalf of the council. The report will be unable to be officially forwarded until we have another full council meeting. So, it makes sense to me that the Chairman call for a full council to get together so that at that time we could also pass officially on the report.

Mr. SMITH. Any further discussion?

Mr. BOWDEN. I just feel they are two different issues. I would vote against any resolution to change this whatsoever.

Ms. MCCOY. I call for the question.

Mr. SMITH. The question is called. Those in favor of voting on this amendment to the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[Chorus of noes.]

Mr. SMITH. I think the ayes have it, but let's count just in case. Those in favor, raise your hand.

[Show of hands.]

Ms. ABLAN. We're voting on the amendment. Right?

Mr. SMITH. This is the question. We are voting on the amendment by Tim to Herb's resolution. We were voting to vote on that. And we did have a majority. So, we will now vote on the amendment to the resolution.

Those in favor of Tim's amendment, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, say the same.

[Chorus of noes.]

Mr. FLOSS. To explain my vote, we have just nullified our statement, and I wouldn't want to be a part of that.

Mr. FINE. Well, I don't agree with you, Walter, at all.

Mr. FLOSS. You don't usually, Tim.

Mr. FINE. I think the amendment passed. I think you should announce that the amendment passed.

Mr. SMITH. The amendment did pass.

And Laverne, do you have a question?

Ms. MORROW. No.

Mr. FINE. Now we should vote on the resolution as amended.

Mr. SMITH. On the resolution as amended, any discussion?

[No response.]

Mr. DENNIS. I call for the question.

Mr. SMITH. The question is called. All in favor of voting on the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[Show of hands.]

Mr. SMITH. OK, we will now vote on the resolution as amended. Those in favor of the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. All opposed, the same.

[Chorus of noes.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON MANDATED BENEFITS

Whereas, Congress has become more intrigued in introducing and pursuing non-competitive, costly, and prohibitive business legislation in the forms of mandated benefits and/or policies which are required as part of doing business, such as family and medical leave, right-to-know legislation, expanded medical insurance, equal opportunity legislation, advance notice of plant closings, and such proposals would put a sizeable burden on small businesses which cannot comply easily; and

Whereas, left on their own, the majority of small business employers will handle these matters in a sensible way, so as to meet the needs of both their business and their employees, and are free to make basic business decisions or select compensation packages appropriate for their employees, based on their type of business and region. Further, much of this legislation, which is specifically designed to reduce individual economic responsibility of the employee, is simply transferred to the shoulders of the small business person.

These artificial costs of doing business tend to make many small businesses noncompetitive. Further, these fixed costs greatly interfere with the supply-and-demand equation and present an obstacle to operating a business as a free enterprise establishment.

These costs not only affect business but jeopardize the jobs of the people that they are designed to protect by (a) greatly reducing entry-level jobs and (b) increasingly causing many small business people to become reluctant to hire people on a full-time permanent basis.

Whereas, there is a trend of Congress intervening more and more into these areas of restrictive legislation; and

Whereas, it has been shown clearly over the years that the most efficient mechanism with which to distribute goods and services to our economy is through open-market, supply-and-demand mechanisms;

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business urge the Committee to oppose mandated benefits for small business and to work to find ways for small business to better afford employee benefits under the free enterprise system;

Therefore, be it further resolved that a working group of the Council be appointed to study pending legislative proposals on mandated employee benefits and that this group report to the Council not later than December 31, 1988, its recommendations and proposals for modification or amendments to these legislative proposals which will lessen the impact on small business of any new benefits which might be enacted.

Mr. SMITH. The next resolution on our agenda is on the White House Conference on Small Business, and I was the one who sponsored that one. For the sake of time, I am going to skip down to the:

Therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the Congress and the President to:

Number one, evaluate all pending bills which could possibly affect small business, based on the recommendations of the 1986 White House Conference on Small Business;

Two, draft legislation which addresses the balance of the top 10 recommendations of the 1986 White House Conference on Small Business immediately, with the next 20 recommendations to be addressed during the following year;

Three, support S. 818 to authorize the 1990 White House Conference on Small Business; and

Four, respond immediately to the recommendations which come out of the proposed 1990 White House Conference on Small Business, sending a message to those delegates that Congress understands the importance of Small Business to our country's economy and wellbeing.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE RECOMMENDATIONS ON THE 1986 WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Whereas, almost two years ago, 1,823 small business owners attended the 1986 White House Conference on Small Business, by invitation of the President and Congress, and at their own expense; and

Whereas, during the five-day conference, these delegates prioritized the issues which hinder their ability to operate in a competitive manner and can be corrected by proper legislation in Congress; and

Whereas, the issues affecting small business should be of interest to Congress and the President, and should be acted on in a timely manner, in that:

1. 99 percent of all non-farm businesses are considered to be small businesses by SBA standards;

2. small Businesses employ 53 percent of the private work force, contribute 42 percent of all sales, and are responsible for 38 percent of the Gross National Product;

3. small businesses produced 4.39 million new jobs between 1980 and 1984, over 3½ times that of big businesses;

4. small businesses produce 2½ times as many innovations as big businesses relative to the number of persons employed;

Whereas, of the 60 final recommendations listed in order of priority, relatively few have been addressed appropriately. Further, there are many bills under consideration in the Congress which are totally contrary to the recommendations' intent; and

Whereas, millions of Small Business owners are beginning to believe that the costly efforts of the 1986 White House Conference on Small Business were merely a ploy to lull Small Business back into a sense of complacency;

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the Congress and the President to:

1. Evaluate all pending bills which could possibly affect Small Business, based on the recommendations of the 1986 White House Conference on Small Business.

2. Draft legislation which addresses the balance of the top 10 recommendations of the 1986 White House Conference on Small Business immediately, with the next 20 recommendations to be addressed during the following year.

3. Support S. 818, to authorize the 1990 White House Conference on Small Business; and

4. Respond immediately to the recommendations which come out of the proposed 1990 White House Conference on Small Business, sending a message to those delegates that Congress understands the importance of Small Business to our country's economy and well-being.

Mr. SMITH. Discussion?

Ms. MORROW. I move that we accept the White House Conference resolution as stated and agreed.

Mr. FINE. Second.

Mr. SMITH. There's a second. Any discussion?

[No response.]

Mr. SMITH. All in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

The next resolution is Freddie's on unfair competition.

Ms. SAXON. This is a resolution concerning unfair competition.

Whereas, Government at many levels is competing increasingly with small business in providing goods and services; and

Whereas, the magnitude of this competition is difficult to measure because the competition is both direct and indirect and because the competition comes from two sources: first, from the nonprofit organizations performing nonrelated commercial services; and secondly, government organizations performing commercial services; and——

Mr. SMITH. For the sake of time, Freddie, could we skip down to the "Therefore, be it resolved"?

Ms. SAXON. Fine.

Mr. SMITH. Thank you.

Ms. SAXON [reading]:

First, that the National Advisory Council to the Senate Committee on Small Business recommend to the Committee that Congress take immediate steps to stem the tide of unfair competition, and to create a level playingfield where all who compete do so under the same rules; and

Second, the Senate Small Business Committee shall, while encouraging the noncommercial activities of nonprofit organizations, study the competitive effect on small business of such organizations engaging in nonrelated commercial activities while enjoying exemptions from certain Government regulations;

Third, the Senate Committee on Small Business shall take an active role in overseeing the activities, policies and procedures of the Federal Prison Industries and other Government organizations performing commercial services; and

Fourth, Federal Acquisition Regulations shall no longer require that Federal agencies seek waivers from UNICOR when they wish to purchase goods and services from small business vendors within the constraints of other applicable regulations.

Mr. SMITH. Any discussion?

Ms. SAXON. May I just say that this resolution really concerns two issues? First, competition for nonprofit organizations. And this is really a tough issue because we certainly value our nonprofit organizations, our charities and universities, our churches and hospitals. But when they engage in unrelated business ventures, they are using their tax-free status to unfairly compete with small businesses selling the same products and services.

And then the second part, the second issue that is involved here is when the Federal Government itself competes with small business. And that is in organizations like UNICOR or Federal Prison Industries. They have been operating in a restrained way for many years, but now they plan to expand very rapidly. And they will expand rapidly at the same time that Government spending is being reduced. And I think this will create quite a problem for small business.

Mr. SMITH. Thank you, Freddie.

Any further discussion? Shaw.

Mr. MUDGE. Yes. Frederica, I would like to ask what would prisoners do? What work will they do if they weren't making license plates, soap, and detergents? I mean, I don't see anything replacing their activity. I think prison reform considerations are an extreme priority in our society.

Mr. SMITH. Michael.

Mr. LEFKIADES. I think there is a variety of activities that they could engage in such as public works projects that otherwise would not have been done, forestry or improvement in municipal facilities that will not have been done otherwise unless prison labor were utilized. However, they should be restricted in the areas where businesses, small businesses particularly, are actively engaged in and pursue a certain line of work. I understand some prison industries now are manufacturing office furniture, to be specific. Office furniture is a big thing now in the prison industries, chairs, desks, file cabinets, and so on. Now, by no stretch of the imagination could this be construed to be an area of public improvement that otherwise would not have been done.

These are the areas that really Frederica's resolution addresses, areas that are in direct competition with small business. Is that correct?

Mr. SMITH. Yes.

Mr. DENNIS. Mr. Chairman, the reason why this issue is so complex anyway is because anything that the prisoners do or nonprofits do a small business profit could do. I think anything that you might bring up, there is probably a business that could and probably is addressing that issue right now. The question is survival, allocation of resources for these different segments of the economy. And that is the real issue.

As small business people, we have to take a strong stand that this should not be done. But, again, it is not going to solve the issue because if you say forestry, our small business people provide forestry services. Whatever it is, there is a business that can provide

it. It's another one of those issues that we have to be aware of. There's a whole other side to it.

Mr. SMITH. Marcia.

Ms. BYSTROM. An interesting concept that I have heard discussed back home is the concept of a for-profit business being housed within a prison where the prisoners are employees and will be required to meet all the standards of business practice. And, therefore, the prisoners are being trained. They will learn how to deal within a for-profit organization. In a couple cases, these businesses actually agree to hire the prisoner once that person is released. So, here is what I thought was a great and interesting concept that a for-profit could be housed within the prison system.

Mr. SMITH. Freddie.

Ms. SAXON. I think that we all agree that prisoners do need to have something to do and to develop skills that they can use in the job market when they are released. However, the legislation that is before the House at this time would grant authority to the prisons to borrow money from the U.S. Treasury to finance this very rapid expansion. As I say, they have been operating in a restrained way, but now they plan to double their capacity and to market more aggressively. And even if you call it a for-profit business housed within the prison walls, you and I are paying their room and board. That is pretty tough for a small business to compete with.

Mr. DENNIS. I had to smile when you said they're going to borrow from the U.S. Treasury. Are we going to vote an amendment to raise the small business loan requirement to $750,000 which comes from the same U.S. Treasury?

So, maybe the question really is that what we are really complaining about is they don't pay taxes. So, maybe the issue should be they ought to be charged an assessment in lieu of taxes, equivalent to what business people have to pay to make that level playingfield, and that money should go back to the Treasury just as we are being taxed. And that is probably more the issue because I don't think we are going to stop people from doing things. People are human beings. Whether you call them nonprofit prisoners or prisoners, you have people who have time and resources that they want to put to use. They are going to put that to use. The only level playingfield is to make sure that we're paying the tax and we charge an assessment to them. And that to me is one of the solutions to it.

Mr. SMITH. In lieu of time, we need to wrap things up. We either need some quick, concise discussion, a motion, or we will vote on the issue.

Mr. BOWDEN. I happen to agree very much with Dan over here on that issue. And anybody who has been in the prisons very much—and I haven't served the time; I mean, I just visited. I want to make that clear. [Laughter.]

The biggest problem is teaching these people skills and getting them interested in things they've never been interested in. And that is one of the prices I suppose we pay in small business, but you pay now or you pay later when they get out as they rob you. That's about what happens.

I sure wish that clause wasn't in there.

Mr. MUDGE. Me too.

Mr. BOWDEN. I just wish we could strike it out of there and I think I would make an amendment—as a matter of fact, I will—just to strike it and say "Government organizations" because I think it's a separate subject.

Ms. MORROW. You mean the prison part?

Mr. BOWDEN. Just the part that strikes the prison part and says Government agencies.

Mr. SMITH. Herb, is that a motion?

Mr. BOWDEN. Yes.

Mr. MOHS. Second.

Mr. SMITH. And Fred seconded it. All right.

Any discussion on that? Yes, Freddie.

Ms. SAXON. I would say though that this resolution is not against UNICOR being involved in business. It is against the rapid expansion and the use of Federal funds. Well, I don't even think it mentions Federal funds. It's the rapid expansion. There's another part of this issue, the requirement that any Government agency wishing to purchase goods and services elsewhere must get the permission of UNICOR to do it. And that's a part of this too.

Mr. FLOSS. I have been working on this issue. In the New York State prison system they build furniture, and it was only originally to supply the State with all their needs. Now, they have catalogs. They are out in the field, and they are making sales all over. And only after one industry folded up in the southern interior of the State did we get a look at it. Now, we have a little dilemma. Again, we get those people saying so we've got to have them do something.

But we are looking into privatization now. As you were saying, one State is doing it very well. If an entrepreneur comes in, they bid to take over the prison industry. There is a privatization of it. They pay the prisoners, and then the prisoners have to pay their tuition for their education. It gives everybody a nice feeling. It gets them use to getting a paycheck, so when they go out, they do follow through. I don't remember the name of the State, though. There is a State doing it successfully. That may be another recourse that if it happens on the Federal level, the Federal prison, as you were saying, maybe our resolution could be the privatization of it.

Mr. SMITH. Further discussion?

[No response.]

Mr. SMITH. There is a motion on the floor. We will now vote——

Mr. BOWDEN. On the amendment.

Mr. SMITH [continuing]. On the amendment, the motion to amend the existing resolution which is to strike the fifth whereas,

> Whereas, Government organizations known as UNICOR, or Federal Prison Industries, are expected to grow from $3 million in sales in 1987 to $6 million in sales in 1992 and the amount of Government purchases of goods and services is not expected to grow proportionately due to budgetary constraints.

That "whereas" will be stricken from the resolution, and the next "whereas" also.

Ms. BYSTROM. Excuse me. On "Therefore, be it resolved," is 3, which specifically refers to the Federal Prison Industries, still in? And on item 4, which deals with UNICOR—are those still in? These are in the "be it resolved."

Mr. BALL. Well, in number 3, you could simply strike the prison industries portion and leave that the committee would oversee Government organizations.

Ms. BYSTROM. And how is number 4 left?

Mr. BOWDEN. That's my resolution, just to strike "of the Federal Prison Industries and."

Mr. SMITH. The fourth resolve?

Mr. BOWDEN. In number 3, "of the Federal Prison Industries" would be struck, and then——

Mr. SMITH. Excuse me. "The Federal Prison Industries and" would be struck.

Mr. BOWDEN. Well, just "procedures of other Government organizations."

Mr. SMITH. Does everybody understand the amendment?

[No response.]

Mr. SMITH. We will now vote. All those in favor of the amendment to the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[Chorus of noes.]

Mr. SMITH. The amendment to the resolution passes.

Any further discussion on the resolution in general as amended?

Mr. WIITA. Ed, I would just ask Freddie or anyone for their input. Exactly what does this mean? I'm on the Red Cross board of directors. Does that mean that the Red Cross when they need to raise money—United Way is holding firm on their allocation and won't increase it at all. Does that mean they could not go out and have a roadrace and earn $1,500? I just want to make sure what we are doing to nonprofits here.

Ms. SAXON. No.

Mr. WIITA. They are still able to do that type of thing? OK.

Mr. SMITH. May I remind everyone to try to speak into the microphone when they need to say something?

Ms. BYSTROM. I think the resolution lacks what I think are the buzz words on the nonprofit side which is unrelated business taxes. And we are kind of talking to the issue, but unrelated business taxes are any taxes on any operation, product or service that is unrelated to the mission needs to be taxed. And I think adding those words would be a significant statement of what we are really attempting.

Mr. SMITH. Is that a motion, Marcia?

Ms. BYSTROM. Yes, but I'm not sure where they would be added, to tell you to the truth. But I think the motion does need to have those two or three words.

Ms. SAXON. In the "Therefore, be it resolved," it does say that it "shall study the competitive effect of small business of such organizations engaging in nonrelated commercial activities while enjoying exemptions from certain Government regulations."

Mr. DENNIS. Could we add regulation and taxation.

Ms. MORROW. Right, regulations and taxation.

Ms. BYSTROM. And could I then also move that wherever it says "nonrelated" that it be substituted with the "unrelated" because that goes to the tax law language?

Mr. SMITH. OK.

We have a motion. Is there a second to the motion to amend the resolution?

Mr. HOPEWELL. Second.

Mr. SMITH. We have a second.

Further discussion of that amendment?

[No response.]

Mr. SMITH. All those in favor of the amendment to the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The amendment passes.

Any further discussion of the resolution in general?

[No response.]

Mr. SMITH. Then we will put it to a vote. Those in favor of this resolution as twice amended, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTIONS OF THE NATIONAL ADVISORY COUNCIL ON UNFAIR COMPETITION

Whereas, Government at many levels is competing increasingly with small business in providing goods and services; and

Whereas, the magnitude of this competition is difficult to measure because the competition is both direct and indirect and because the competition comes from two sources: (1) non-profit organizations performing unrelated services; and (2) government organizations performing commercial services; and

Whereas, the government gives such non-profit organizations tax exemptions and other benefits, those organizations have a competitive edge over small business; and

Whereas, some government organizations operate with many statutory advantages over their private sector small business competitors; and

Now, therefore, be it resolved that

(1) The National Advisory Council to the Senate Committee on Small Business recommend to the Committee that Congress take immediate steps to stem the tide of unfair competition, and to create a level playing field where all who compete do so under the same rules; and

(2) The Senate Small Business Committee shall, while encouraging the non-commercial activities of non-profit organizations, study the competitive effect on small business of such organizations engaging in unrelated commercial activities while enjoying exemptions from certain government regulations and taxation.

(3) The Senate Committee on Small Business shall take an active role in overseeing the activities, policies and procedures of government organizations performing commercial services.

Mr. SMITH. The next resolution on the agenda is Laverne's increased Federal procurement.

I would like to say Senator Bumpers is not here today. He is in meetings and he regrets that he cannot be here. He may be here a little later, but he will be spending the lunch hour with us. So, we will have the opportunity to talk to the Chairman of the Committee at that time.

Laverne.

Ms. MORROW. Yes. I will skip the "whereases," but before I begin, it has become apparent to me as I have talked with people over the course of the last day and a half that many people, because of the complication of the Federal procurement process—and

it is very complicated with different agencies having different procurement procedures—that many small business owners, because of the time and the paperwork, shy away from even pursuing the Government as a client or pursuing the Federal Government market. And there is much legislation already on the books but not enforced that deal with paperwork regulation that encourage the participation of small businesses.

I don't know how many of you are aware, but most of your Government agencies have an Office of Small Business Development. They have small business specialists. Walter and I talked about this yesterday, that it is simply not working for small businesses and that many of us do not understand the procurement process. And once we begin to look at it, it is amazing. It is so complicated. So, to that end, I will read the resolved part.

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the Congress to investigate current barriers to small business participation in Federal procurement and to enact legislation that includes specific guidelines and procedures to insure that Federal purchases from small business matches small business private sector sales, by industry, thereby providing small business with overall "bigger piece of the Government pie." with specific goals for women and disadvantaged businesses.

Mr. DENNIS. I'll second that motion.

Mr. SMITH. Discussion?

[No response.]

Mr. SMITH. All right, we will put it to a vote. Those in favor of this resolution by Laverne Morrow, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes. Thank you, Laverne.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON GREATER AND EQUAL PARTICIPATION OF SMALL BUSINESS IN FEDERAL PROCUREMENT

Whereas, small businesses account for 42% of the Gross National Product (GNP); and

Whereas, small businesses provide 62% of the net new jobs to the economy; and

Whereas, the government is the nation's single largest purchaser of goods and services; and

Whereas, government contracts serve as a major market for small and small disadvantaged business development and capitalization; and

Whereas, prime contractors and large subcontractors provide an excellent opportunity for small businesses to retain a more equitable share of Federal procurement; and

Whereas, small businesses account for 24% of all private sector sales for all products and services and only 14% of Federal procurement of all products and services;

Now, therefore be it resolved that the National Advisory Council to the Senate Commitee on Small Business calls upon the Congress to investigate current barriers to small business participation in Federal procurement and to enact legislation that includes specific guidelines and procedures to insure that Federal purchases from small business matches small business private sector sales, by industry, thereby providing small business an overall "bigger piece of the government pie", with specific goals for women and disadvantaged businesses.

Mr. SMITH. The next resolution will come from Ray Lansing who sponsored the resolution on minimum wage.

Mr. LANSING. Mr. Chairman, I will skip down to the "Therefore."

Mr. SMITH. Thank you.

Mr. LANSING [reading]:

Therefore, be it resolved, that the National Advisory Council to the Senate Committee on Small Business urge the committee to support holding the line on the minimum wage to enable small business to continue to hire workers and to make a profit. If an increase is inevitable, however, such increase should be minimized to a reasonable amount and in no way include indexing in any form.

Mr. LANSING. I believe that conforms to what the majority of the committee discussed yesterday and what was brought up earlier this morning that we are being somewhat flexible in this. However, we are taking a stand on the indexing.

Mr. SMITH. Thank you, Ray.

I think you took the microphone at an appropriate time just as Senator Wallop from Wyoming joined us. Welcome Senator Wallop.

Senator WALLOP. Thank you, Mr. Smith.

Mr. SMITH. Now, is there any discussion of this resolution?

Ms. MORROW. Just a comment. I was opposed to this yesterday, and I would like to commend the subcommittee because this is very acceptable to me. I think it shows how we can take a stand and at the same time deal with the realities. So, I would like to personally commend the subcommittee because I can vote on this now in a positive fashion while yesterday what I heard I was opposed to. And I think that shows a really good consensus when we have to compromise.

Mr. SMITH. Thank you. I appreciate that.

Any further discussion?

[No response.]

Mr. SMITH. We will put it to a vote. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The motion passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE MINIMUM WAGE

Whereas, small business is responsible for 70% of all new jobs in the United States; and

Whereas, two-thirds of all workers enter the workforce in a small business; and

Whereas, in many regions of our country where unemployment rates are moderate to low, the minimum wage rate is primarily used during the introduction or probationary period of employment only, consequently, and increase in minimum wage will result in exclusion of young jobs seekers from the job market; and

Whereas, raising the minimum wage would cause employers to hire fewer employees, and in marginal operations, lay others off;

Whereas, Congress should have faith in the free market system, which has worked adequately in the past, to provide the appropriate compensation package for employees, allowing the trend towards flexible benefits to continue, and assuring that motivation and sense of accomplishment in the work force be maintained.

Now, therefore, be it resolved that, the National Advisory Council to the Senate Committee on Small Business urge the Committee to support holding the line on the minimum wage, to enable small business to continue to hire workers and to make a profit. If an increase is inevitable, however, such increase should be minimized to a reasonable amount and in no way include indexing in any form.

Mr. SMITH. The next is from Tony on the Small Business Administration.

Could we break just for a second? Senator Wallop, would you care to address the council?

Senator WALLOP. I just would like to express my appreciation to all of you for what you represent to all of us.

Interestingly enough, small businesses have provided 110 percent of the job growth of the last 5 years, and the reason is because big businesses, large scale businesses, have been declining. So, while we have had this enormous national growth of jobs, it has come from the small business community, and it is the reason why the United States is poised on the most competitive threshold of its entire economic existence. It is because much of this economy has been restructured, and the decline of the huge business enterprises is part of it. And one of the reasons why you see big business and big labor combined into some of the things that I see on your agenda is simply because they want to eliminate your competitiveness, your ability to create big jobs.

I know you agreed to study mandated health benefits or mandated benefits generally, but let me just suggest to you what is taking place. The European Economic Community is scheduled to be one entire market by 1992. The European government has suggested to the principal nations—Germany, France and Britain—that by 1992 they eliminate mandated benefits because they are called and identified by the European government as the European disease. They are the reason by which no jobs have been created and very little growth has occurred in the last decade. So, about the time Europe is desperately trying to crawl out from under the blanket of socialism, there seems to be a major push within this country to crawl in behind them and have it cover us for a while.

I urge you, as you view the world, to express the diversity of opinion that the diversity of the small business community brings with it, but to keep in mind the experience of others and how desperate they are to remove themselves from the constraints that caused no growth and no increase in jobs. Make no mistake about the importance of small business to America's position in the world, diplomatic, economic, competitive, as a trading Nation.

So, I just welcome you all here and tell you how much it is my privilege to be among you. I used to be one of you and I still am in some ways when I get out of here. Thank you.

Mr. SMITH. Thank you, Senator Wallop. I think that's a very interesting statistic. I haven't heard that where small business is responsible for 110 percent of the growth in the number of jobs.

Senator WALLOP. It is one of the reasons why big business doesn't much care about some of these mandated things because they are already part of what they have negotiated as part of collective bargaining. And because you have not been party to those things, especially in the past, you have been able to create the growth that you have. And the reason why they have not been able to grow is because of agreements that they have entered into long ago. So, big labor and big business is very much combined and not in your interest as small businesses.

Mr. SMITH. Thank you very much.

Tony is not here to present his resolution at this time, so we will skip over that one and come back to it as soon as he returns. The next on the agenda is Shaw's Pepper Home Care bill, H.R. 3436.

Mr. MUDGE. Well, I will just read the resolution.

Therefore, be it resolved that the Small Business Advisory Committee urges the Senate Committee on Small Business to hold hearings on health care access with special emphasis placed on the effectiveness and impact of H.R. 3436, the Pepper Home Care bill.

Mr. MUDGE. This is a bill for which there have not been hearings in the House. Many in the House hope that it will be stopped in the Senate because of the way it is being railroaded through the House. They are embarrassed by it. Congressman Pepper is using his power on the Rules Committee that this might be brought out on the floor without the proper jurisdictional committees reviewing it. There are several bills that are in the offing, some which have been written that address this subject. We ask that the Senate Committee on Small Business hold hearings on the subject.

Mr. SMITH. Thank you, Shaw.

Any further discussion?

[No response.]

Mr. SMITH. We will put it to a vote. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. Thank you. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON H.R. 3436, PEPPER HOME CARE BILL

Whereas, many needy individuals are denied access to adequate health care; and

Whereas, demand for health care continues to increase; and

Whereas, the demographics of the U.S. population indicate that no lessening of demand for health care services, especially among the elderly, is likely to occur for decades; and

Whereas, health care costs continue to escalate faster than the general rate of increase in consumer prices; and

Whereas, small business owners, due to the labor intensive nature of their businesses and their employees, tend to bear a disproportionate share per capita of health care costs; and

Now, therefore, be it resolved that the Senate Small Business Committee's National Advisory Council urges the Senate Committee on Small Business to hold hearings on health care access with special emphasis placed on the effectiveness and impact of H.R. 3436, the Pepper Home Care bill.

Mr. SMITH. We will now go back to Tony's resolution on the Small Business Administration.

Mr. WILKINSON. Are we just reading the last parts?

Mr. SMITH. Yes, please.

Mr. WILKINSON [reading]:

Be it resolved that the Senate Small Business Committee Advisory Council supports the "Small Business Administration Reauthorization Act of 1988" that specifically reauthorizes the agency and increases the maximum guaranty amount to $750,000 from $500,000;

That any increases in budget authority needed be made to support the increase in the maximum loan guaranty; and

That SBA take the necessary action to insure that loans from certified lenders be turned around by SBA district offices within a three-day period.

[Proposed resolution follows:]

A RESOLUTION ON THE SMALL BUSINESS ADMINISTRATION'S LOAN PROGRAM

Whereas, the U.S. Small Business Administration's 7(a) loan program continues to fill a void in the capital markets for term loans to small businesses; and

Whereas, the GAO did an extensive survey of commercial banks in 1983 and concluded that the 7(a) program was the Federal Government's answer to small businesses need for long-term financing; and

Whereas, the maximum loan guaranty amount has been set at $500,000 for several years; and

Whereas, Certified and Preferred Lenders of the Small Business Administration's 7(a) loan program have well performing loan portfolios and not all certified lenders are receiving loan application approvals from SBA district offices within the three day time period mandated by SBA regulation;

Now, therefore, be it resolved that

(1) the Senate Small Business Committee Advisory Council supports the "Small Business Administration Reauthorization and Amendments Act of 1988" that specifically reauthorizes the agency and increases the maximum guaranty amount to $750,000 from $500,000;

(2) that any increases in budget authority needed be made to support the increase in the maximum loan guaranty; and

(3) that SBA take the necessary action to insure that loans from certified lenders be turned around by SBA district offices within a three-day period.

Mr. SMITH. Any discussion on this resolution?

[No response.]

Mr. SMITH. We will put it to a vote then. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

Yes.

Ms. BYSTROM. Could I just reiterate what Senator Boschwitz said earlier about the need for us to address very small loans. I just want to reiterate that even though it is not in this resolution, it should be addressed.

Mr. WILKINSON. There is a provision in the House reauthorization bill that provides incentives for lenders to make smaller loans. So, I know that issue will come up in conference. But in the institutions that I have been talking to, when you get below a certain dollar amount, lenders are hesitant to actually go through the entire SBA loan process. I know at our institution we are willing to make any size loan as long as it qualifies. But once it gets under about a $50,000 level, we are willing to make that loan without the SBA guaranty and just do it direct. So, I think there is a void in SBA loans under the $50,000 level primarily because it is easier and less expensive for lenders to go ahead and make those loans direct.

Mr. SMITH. Any further discussion?

Mr. LEFKIADES. Yes.

Mr. SMITH. Michael.

Mr. LEFKIADES. I would just comment that the reason the lenders don't want to involve the SBA is they don't want to go through the paperwork, through the process because they find it very expensive. The banks find it very expensive to allocate resources and manpower to make those loans.

However, in all deference to Tony, I would say that we should have some language requiring banks as part of the package of being preferred lenders to be compelled to make those loans regardless of the fact that they have to go through the process and the paperwork. It is so very essential that those small entrepreneurs are given that initial seed money which is so crucial to a

housewife who wants to start a babysitting service or a housecleaning service though to us it may not seem something large or whatever, $3,000, $4,000, $5,000. It requires the very seed from which a very large tree will grow.

The banks are very reluctant to do this because it is expensive. A bank is a profitmaking institution. They are very reluctant to make those loans. And I think we should have language requiring banks that if they are going to participate in this, they have to underwrite those. They have to do their work. They have to do the paperwork. They have to do the logistical work to make those small loans for a starting business.

Ms. BYSTROM. Mr. Chairman, I have a concept. I don't know if we need to put it in a resolution form, but a concept could be that SBA could guarantee that a pool of money, say $100,000, the purpose of which would be split into small loans and, therefore, from a bank point of view, the paperwork would be done in a pool that could subsequently be parceled out in smaller pieces. I don't mean to dwell on it. I really did want to just reiterate the point that Senator Boschwitz made earlier because I do think it's a real issue.

Mr. BALL. If I could just make one brief comment for the council. As Tony pointed out, there is a provision in the House SBA reauthorization bill, which we will be going to conference on within the next month or so, which does give enhanced authority to preferred lenders to make these small loans and allows them to keep part of the guarantee fee actually, rather than giving it to SBA, as an incentive to make these smaller loans. So, there is concern about it in Congress and it is certainly something that the committee will look at carefully in the conference.

Mr. SMITH. Thank you, John.

We will now move on to the next resolution, Marcia's resolution on the budget deficit.

Ms. BYSTROM. Thank you.

Be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the President and the Congress of the United States to take immediate action to address the

—not "this"—

budget crisis. In the consideration of specific actions, no areas should be exempt, including tax increases, substantial reductions in defense spending, entitlement programs (including social security) and other domestic discretionary programs.

Ms. BYSTROM. Just a real quick comment. There are a lot of pressing issues that many of us are concerned about mainly because there is legislation pending on the mandates, and so forth. But I think if you get a bunch of small business people, at least back home, talking about what they feel is the critical, long-term problem with our economy and the country, the reference always comes back to the budget deficit. And I think one of the problems is we have been fighting for this for so long that it becomes almost old hat. And I just feel that it is important for us to send a clear message once again that we are watching the budget deficit and will be grading, if you will, our elected officials as to their performance, like we get graded for our performance on the profit line, as to how they will deal with the budget deficit in the future.

Mr. SMITH. Thank you, Marcia.

Mr. BOWDEN. I move adoption.

Mr. SMITH. I would first like to recognize Senator Harkin from Iowa who has joined us. Glad to have you with us. Would you like to say anything?

Senator HARKIN. No. I'm sorry I won't be able to stay too long, but until my beeper goes off, I'll be here. I can never tell when that is going to happen.

Mr. SMITH. We appreciate the time you do spend with us.

Herb.

Mr. BOWDEN. I'd just move adoption of the resolution.

Mr. SMITH. OK. Is there a second?

Mr. FLOSS. Second.

Mr. SMITH. All right, being no discussion, we will now vote on the resolution. Those in favor, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, say the same.

[No response.]

Mr. SMITH. It passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE BUDGET DEFICIT

Whereas, the total Federal debt has grown to trillions of dollars, and seriously threatens the majority of the nation's small businesses, which would be particularly hard hit by higher interest rates, renewed inflation and a stagnating economy; and

Whereas, the Congressional Budget Office estimates that without any corrective action by the President or Congress to immediately reduce these deficits and hold the line across the board on controllable spending, that a crisis is at hand for small business; and

Whereas, any effective debt reduction package should include necessary tax increases, while allowing for provisions that are favorable to the short and long-term planning of both small and agri-related businesses;

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the President and the Congress of the United States to take immediate action to address the budget crisis. In the consideration of specific actions, no areas should be exempt: i.e. tax increases, substantial reductions in defense spending, entitlement programs (including Social Security) and other domestic discretionary programs.

Mr. SMITH. The next resolution is Walter Floss' product liability reform.

Mr. FLOSS. I just wanted to make sure that everybody added the word "distributor" between "manufacturers" and "sellers" as it was recommended and voted on yesterday. If you have that in front of you, I will read it the way it should be then.

Resolved, the Small Business Advisory Council supports legislation that: (1) would return the tort system to a fault-based standard in products cases, (2) clearly define the limits on manufacturers', distributors', and sellers' liability by establishing appropriate legal defenses, (3) establish fair rules of evidence, (4) restricting joint and several liability, (5) establish shorter statutes of repose, and (6) encourage settlement and arbitration.

Mr. SMITH. Any questions? Any discussion?

[No response.]

Mr. SMITH. We will put it to a vote. All those in favor, say aye?

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

A RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON PRODUCT LIABILITY REFORM

Whereas, State courts have over the past twenty-five years deviated from fault-based standards in product liability cases; and

Whereas, The plethora of State standards has created astronomical increases in liability insurance costs and reduction in availability of product liability coverage for manufacturers; and

Whereas, The uncertainty caused by differing State standards has caused new companies and companies with new products to find it most difficult to acquire product liability insurance, thus stifling innovation and growth in the business sector which provides the most international competitiveness for our Country; and

Whereas, The results have been unfair and excessive judgments against manufacturers and product sellers, judgments that have pushed small firms into bankruptcy, reduced the capacity of large firms to compete internationally, and driven up the cost of property-casualty insurance for everybody; and

Whereas, Individual states cannot by themselves address this problem since 75% of all manufactured goods are sold outside of the state of manufacture in interstate commerce. A state enacting product liability reform legislation will therefore limit the liability of in-state sales;

Therefore be it resolved that the Small Business Advisory Council supports legislation that: (1) would return the tort system to a fault-based standard in products cases, (2) clearly define the limits on manufacturers', distributors', and sellers' liability by establishing appropriate legal defenses, (3) establish fair rules of evidence, (4) restrict joint and several liability, (5) establish shorter statutes of repose, and (6) encourage settlement and arbitration;

Be it further resolved that copies of this Resolution be transmitted to the leadership of the Congress of the United States and to Senator Dale Bumpers, Chairman, and the members of the Committee on Small Business.

Mr. SMITH. Fred, your RICO resolution.

Mr. MOHS. This is the second time up for our support of civil RICO. In our 1986 conference we urged support for a RICO bill that was in the House, Representative Boucher's bill, and that passed the House, but didn't get to the Senate in time for the 99th Congress. It has now been reported out of the Senate Judiciary Committee, by an 11 to 0 vote, just the 24th of this month, and is marked up and ready to go. There is a companion bill in the House. So, this motion is meant to support both of those bills. I will read the resolution.

Now, therefore, be it resolved that legislation introduced and pending before Congress to correct some of the numerous shortcomings in RICO should be adopted by the Congress, to wit, S. 1523 introduced by Mr. Metzenbaum and H.R. 2983 introduced by Mr. Boucher.

Mr. DENNIS. Second.

Mr. SMITH. Thank you, Fred.

Any further discussion?

[No response.]

Mr. SMITH. All right, we'll put it to a vote. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON CORRECTIONS ABUSES IN RICO

Whereas, the Congress in 1970 passed the Racketeer Influenced and Corrupt Organizations Act (RICO), Public Law 91-452, Title IX, in order to expand the panoply of federal law enforcement remedies against organized crime; and

Whereas, since that time, private civil actions brought under RICO have increasingly targeted legitimate business activities with no connection to organized criminal activity; and

Whereas, small businesses bear an onerous burden in defending their legitimate activities against claims brought under RICO; and

Whereas, a number of deficiencies in the language of RICO permit the unintended misuse of RICO to initiate litigation against legitimate businesses;

Now, therefore, be it resolved that legislation introduced and pending before Congress to correct some of the numerous shortcomings in RICO should be adopted by the Congress, to wit, S. 1523, introduced by Mr. Metzenbaum, and H.R. 2983, introduced by Mr. Boucher.

Mr. SMITH. Tim, would you read your antitrust and monopoly starting with the "be it resolved."

Mr. FINE. Yes. I would like to point out before I start, though, Mr. Chairman, that we are honored to have two Members of the Subcommittee on Competition and Antitrust Enforcement here with us. Tom Harkin is the Chairman of the Subcommittee on Competition and Antitrust Enforcement, and Mr. Wallop of Wyoming is also a member. And so, I think it is appropriate that they are both present when I present my resolution. Tom has just looked at it.

And it provides after the "whereas" clauses that

the Small Business Advisory Council to the United States Small Business Committee hereby calls upon the Congress to pass pending legislation by Senator Metzenbaum to restore the legal rights of American businesses to have the freedom to establish their prices and be free of vertical restraints against them and to enact new legislation to prohibit the destruction of independent wholesalers and distributors through the subterfuge of the so-called delivery agents.

Mr. FINE. In remarks yesterday, Senators Harkin and Wallop, we pointed out that a number of courts now have allowed manufacturers to label their wholesalers as delivery agents, consign the merchandise to them rather than sell it, and thereby fix resale prices through this wooden formula which the Supreme Court condemned in the *Simpson* v. *Union Oil* case where Union Oil changed 6,000 gasoline service station dealers to consignees, but in 1964 the Supreme Court said you are not going to fix prices through this subterfuge. Today because of the antitrust climate, the courts are allowing this type of subterfuge to come back in and fix prices. And we very much appreciate whatever you can do to restore the antitrust laws to their full effectiveness in America.

Mr. SMITH. Thank you, Tim.

Any further discussion?

[No response.]

Mr. SMITH. We'll put it to a vote. All those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON ANTITRUST AND MONOPOLY

Whereas, the Antitrust Division of the Department of Justice and the Federal Trade Commission have totally failed to enforce and carry out the antitrust laws of the United States during the last seven years; and

Whereas, the result of such failure to carry out the enforcement of the antitrust laws has caused serious harm to competition in the American economy and to small business in particular; and

Whereas, the Antitrust Division of the Department of Justice has urged the courts, through the filing of friend of the court (amicus curiae) briefs, to legalize vertical anticompetitive restrictions against small businesses, including resale price fixing, tie-in arrangements, and exclusive dealing; and

Whereas, in response to these developments the courts have recently made decisions against small businesses, particularly distributors, dealers and franchisees, such as the Supreme Court decisions in *Monsanto* v. *Spray Rite* and *Sharp Electronics* (which made it easier for large manufacturers to terminate dealers and distributors for not adhering to the manufacturers' suggested resale prices) and lower court decisions permitting the replacement of distributors by delivery agents in order to fix prices;

Now, therefore, be it resolved that the Small Business Advisory Council to the United States Senate Small Business Committee hereby calls upon the Congress to pass pending legislation by Senator Metzenbaum to restore the legal rights of American businesses to have the freedom to establish their prices and be free of vertical restraints against them and to enact new legislation to prohibit the destruction of independent wholesalers and distributors through the subterfuge of so-called independent delivery agents.

Mr. SMITH. Back to you, Walter, on the business owners exemption from unemployment insurance.

Mr. FLOSS. As I explained yesterday, in order that States could exempt small business owners who are usually the subchapter S, which makes them an employee and, therefore, subject to the payment of the premium of unemployment insurance, but unless they would absolutely dissolve their business, they could never be considered unemployed. So, they are paying for something they won't get a return to. But if we don't do it on a national level, that premium paid to its individual State would revert to Federal when he files his Federal unemployment.

So, unless we start at the top, and if the Feds will allow it, we can't do it on a Statewide basis. He wouldn't get the State credit because he wouldn't be paying the State, but he would, therefore, be subject to that on the Federal unemployment. So, he would be gaining nothing and just opting himself out of receiving it on a State level and not getting the dollar credit. So, I feel it is something that we should do on the Federal level first, and that's what the resolve says. I move it.

Mr. MOHS. Second.

Mr. SMITH. Thank you, Walter.

Any further discussion?

[No response.]

Mr. SMITH. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

A RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON BUSINESS OWNERS EXEMPTION FROM UNEMPLOYMENT INSURANCE

Whereas, Current federal legislation denies states the option of allowing owners of businesses to choose whether or not they desire to pay unemployment insurance premiums on themselves;

Whereas, Federal law dictates that small business owners must pay unemployment insurance premiums on themselves; the only time they may collect unemploy-

ment is when their business closes and ceases to exist; they are not permitted to lay themselves off during seasonal downturns in business; and

Whereas, the initation and enactment of appropriate legislation correcting this current injustice would be most consistent with our government's expressed desire to eliminate unnecessary and encumbering regulations, regulations so punitive to those investing both time and capital in business endeavors; and

Whereas, Currently, federal regulations work to prohibit individual states from initiating legislation making the payment of premiums a voluntary decision; if such legislation were enacted at the state level, the various states would lose eligibility for federal funds; and

Whereas, Members of the small business community through the State of New York have expressed their desire to be excluded from eligibility for unemployment insurance; and

Whereas, Insofar as the limited application of the current law is of minimal value to the owners of small businesses, it is the sense of this Advisory Board to urge that Congress initiate and yet enact legislation permitting states to allow the owners of businesses to choose whether or not they desire to pay unemployment insurance premiums on themselves; and

Whereas, The fiscal impact of such voluntary exclusions of the unemployment insurance fund would be negligible; and

Whereas, Fully cognizant of its commitment to the sustenance and promulgation of an economic ambience conducive to future growth and development, this Advisory Board urges that the Congress of the United States initiate and yet enact legislation permitting business owners to choose whether or not they desire to pay unemployment insurance premiums on themselves;

Now, therefore be it resolved that this Advisory Council pause in its deliberations and urge the Congress of the United States to enact legislation granting individual states the opportunity to extend a measure of just relief to business owners, namely, the right to choose whether or not they desire to pay unemployment insurance premiums on themselves;

Be it further resolved that copies of this Resolution be transmitted to the leadership of the Congress of the United States and to Senator Dale Bumpers, Chairman of the Senate Small Business Committee and the members of the Committee on Small Business.

Mr. SMITH. The next resolution is on the COBRA act sponsored by myself. I will give a little background to this resolution.

A business associate of mine had an employee resign for the purpose of starting his own business in order to compete with my associate's business. Through the COBRA act, he continued his insurance for him and his spouse. During the next year and a half, the ex-employee's spouse had an accident causing multiple insurance claims against my associate's business or the business policy. When the policy came up for renewal, the claim was the only claim on the policy that was computed in the experience rating. Consequently, the insurance rates went up when it was not my business associate's business' fault. Also, when the rates went up, the ex-employee was at that time no longer using the insurance policy from the original company.

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business urges that the Combined Omnibus Budget Reconciliation Act should be amended to disallow the inclusion of COBRA claims in a company's experience rating by insurance companies.

Mr. SMITH. Any discussion?

Mr. LANSING. I move the adoption.

Mr. BOWDEN. I second.

Mr. SMITH. No discussion? We will put it to a vote. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[Chorus of noes.]

Mr. SMITH. The resolution passes.
[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE COMBINED OMNIBUS BUDGET RECONCILIATION ACT

Whereas, the Combined Omnibus Budget Reconciliation Act of 1986, Public Law 99-272, requires employers to continue to make available to former employees a group health insurance program comparable to the program in effect on the former employee's termination date; and

Whereas, the Combined Omnibus Budget Reconciliation Act does not qualify the former employee on the basis of reason for termination of employment (i.e. resignation, lay-off, etc.); and

Whereas, any claims filed by the former employee during this required period are included in the insurance company's experience rating of the company; and

Whereas, America's small businesses are experiencing severe economic problems by continually increasing insurance rates; and

Whereas, the actions of a former employee and/or his family could consequently cause the employer's group health insurance program rates to increase unfairly or be terminated;

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business urges that the Combined Omnibus Budget Reconciliation Act should be amended to disallow the inclusion of COBRA claims in a company's experience rating by insurance companies.

Mr. SMITH. Not to hog the microphone, but I also have the next resolution. The next resolution is on the protection of the family-owned business.

Now, therefore, be it resolved that the Congress should conduct hearings and enact legislation which will ease the burden of estate taxes for family-owned small businesses so that fewer such businesses will face liquidation or reorganization in order to pay estate taxes.

Mr. SMITH. Any discussion?
[No response.]
Mr. SMITH. Being no discussion, all those in favor of this resolution, say aye.
[Chorus of ayes.]
Mr. SMITH. Those opposed, say the same.
[No response.]
Mr. SMITH. The resolution passes.
[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL FOR THE PROTECTION OF THE FAMILY OWNED BUSINESS

Whereas, 175 of the largest 500 industrial companies in the United States are either owned or controlled by a single family; and

Whereas, many founders of businesses during the World War II postwar period (when an unprecedented number of businesses were founded) are now transferring control and ownership of their businesses to family members to continue the tradition; and

Whereas, encouraging continuity in the family ownership of a small business maintains the traditions of service, ethical business standards, loyalty to employees and community involvement of family-owned small businesses; and

Whereas, most small businesses are family-owned and controlled; and

Whereas, upon the death of the business owner, many businesses must be liquidated in order to satisfy the estate and gift transfer taxes created by the transfer of business assets from one family member to another; and

Whereas, protection of Small Business ensures job creation, stable economies, product innovation, and initial job training;

Now, therefore, be it resolved that the Congress should conduct hearings and enact legislation which will ease the burden of estate taxes for family-owned small businesses so that fewer such businesses will face liquidation or reorganization in order to pay estate taxes.

Mr. SMITH. The next is Herb's resolution on the deductibility of interest on disputed tax deficiencies.

Mr. BOWDEN. I won't read all the "whereases" here. I'll just begin to explain just a little bit that if we have a dispute with the Internal Revenue for no reason other than disagreement and during the time that you have this disagreement, if you invest the dollars that are in question, you pay taxes on the investment. If the Government should prevail, you cannot deduct the taxes. And if the sum is any amount at all, it results in an echo date so that the clock is running on you as an individual but not as a Government. So, it continually prompts some of them to ask for delays and delays because it puts leverage in there that need not be.

And so,

therefore, be it resolved that interest on disputed tax deficiencies should be a deductible item for individuals in matters where judgment is involved, where no negligence or fraud is found.

And the examples are behind.

Mr. SMITH. Any discussion?

[No response.]

Mr. SMITH. Being no discussion, all those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON THE DEDUCTIBILITY OF INTEREST ON DISPUTED TAX DEFICIENCIES

Whereas, interest deductions for individuals are being phased out. Interest on an alleged IRS tax deficiency, as a result of an Internal Revenue Service examination, will *not be deductible* to an individual in future years under the most recent IRS regulations; and

Whereas, should the taxpayer prevail and be found correct (win) in his or her filing, interest income, if the disputed amount is invested in the interim by the individual, *is taxable*; and

Whereas, this situation will cause an inequity, and an uneven playing field for individuals—relative to gift taxes, estate taxes and other such cases, this inequity benefits and possibly encourages the Internal Revenue Service to delay hearings, actions, etc., and further provides the IRS unfair leverage to encourage or force unfair settlements; and

Whereas, interest expense on a corporate tax deficiency is deductible as a business expense; however, interest expense relative to a tax deficiency for a proprietorship, partnership or S Corporation is not deductible as this is passed through to the individual owners and taxed accordingly, resulting in another inequity; and

Whereas, many cases protested by taxpayers include simple valuations and other such matters requiring judgment where no negligence or fraud occurs or is even remotely intended;

Now, therefore, be it resolved that interest on disputed tax deficiencies should be a deductible item for individuals in matters where judgement is involved and where no negligence or fraud is found.

Mr. SMITH. We are not on the agenda. We have passed all the resolutions on our stated agenda, but there is another one regarding the SBDC.

Ms. ABLAN. I'll just read the resolve on this.

Be it resolved that the National Advisory Council supports the Small Business Committee in its efforts to obtain a GAO report on the activities of and services

provided by SBDCs and encourages the Committee to act promptly on any GAO findings.

Ms. ABLAN. In our State SBDCs are directly competing with us, and it is happening also across the country. Apparently the structure is kind of free and loose and each State can do what it wants. When they devised the SBDCs originally, they wanted to have a loose structure to fit the needs of every particular community, but as they start to develop, they are going extremely fast. I have former competitors who are now SBDCs. So, I really think we need to find out what is really going on and have some accountability.

I understand, John, there is a study already.

Mr. BALL. Senator Bumpers and Senator Weicker did request a study. I don't know if I should put Senator Weicker on that or not. I can't remember if he was as concerned about it as Senator Bumpers has been, but certainly about the effectiveness.

And as you say, the program has grown tremendously. GAO is working on that, and we will be glad to share it with the council as soon as we get the results.

Mr. SMITH. Any further discussion?

[No response.]

Mr. SMITH. Very well. We will put it to a vote. All those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. Thank you, Thelma.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON SMALL BUSINESS DEVELOPMENT CENTERS

Whereas, certain small businesses offer services similar to those offered by Small Business Development Centers; and

Whereas, such small businesses question the ability of SBDC's to offer the follow-up services needed by their small business clients; and

Whereas, the Senate Small Business Committee has requested the General Accounting Office (GAO) to perform a study on the cost and effectiveness of the Small Business Administration's SBDC program;

Now, therefore, be it resolved, that the National Advisory Council supports the Small Business Committee in its efforts to obtain the GAO report on the activities of and services provided by SBDC's and encourages the Committee to act promptly on any GAO findings.

Mr. SMITH. Freddie, do you have another resolution?

Ms. SAXON. I have a resolution that was passed this morning on general liability reform.

Mr. SMITH. Very good.

Ms. SAXON. And I will read.

Be it resolved that this Advisory Council recommends that the Senate Small Business Committee encourage Congress to:

One, enact legislation embodying Federal uniform professional and commercial liability standards retaining fault (not strict liability) as the standard of liability and specifically reforming tort doctrines in the area of joint and several liability and strongly discouraging frivolous lawsuits; and

Two, enact legislation introduced by Senator Metzenbaum, S. 1299, to limit the Federal antitrust exemption provided to the insurance industry under the McCarran-Ferguson Act.

Ms. SAXON. I would just like to read from the legislation which I do now have with me. That particular legislation has three purposes, Walter. You'll be interested in this. [Laughter.]

The legislation has three purposes: first, to reaffirm the authority of the States to regulate insurance; second, to promote free competition in the sale of insurance by eliminating the industry's general immunity from the antitrust laws; and third, to clarify the legality under the antitrust laws of certain joint activities of insurers such as pooling historical loss data which are essential to the business of insurance and clearly not anticompetitive.

Mr. SMITH. Thank you, Freddie.

Any discussion?

[No response.]

Mr. SMITH. Very well. We'll put it to a vote.

Mr. BOWDEN. Is that wording in there now?

Ms. SAXON. No. I'm reading from the legislation. The resolution endorses the legislation. What I just read you is from the legislation itself so that you would understand.

Mr. SMITH. Herb, do you have that resolution? Is that what you're asking?

Mr. BOWDEN. Yes. I didn't know where she was reading from.

Mr. SMITH. But you do have the original resolution?

Mr. BOWDEN. I think I do.

Mr. FLOSS. But you excerpted from there. You have the ability to read the whole bill. We agreed we would never in a resolution go on an individual bill unless we all had knowledge of what the bill contained. You excerpted three things which I think are good, but I don't know what else is in there.

Ms. SAXON. Well, if you would like me to read the legislation, I would be happy to. [Laughter.]

Mr. SMITH. Further discussion?

[No response.]

Mr. SMITH. We will put it to a vote. Those in favor of the resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL IN SUPPORT OF GENERAL LIABILITY INSURANCE REFORM

Whereas, the unavailability and unaffordability of liability insurance coverage for the small business community has continued at crisis proportions; and

Whereas, this crisis has substantially affected the ability of small business in our nation to continue grow, thrive, and provide new jobs for our nation's citizens; and

Whereas, the various states have passed or are passing legislation which results in confusion as to the liability of both insurers and the insured; and

Whereas, the unpredictability of professional and commercial liability awards and doctrines has added considerably to the high cost of professional and commercial liability insurance by making the accurate prediction of risk virtually impossible; and

Whereas, the recent explosive growth in professional and commercial liability lawsuits and awards is jeopardizing the financial well-being of many professionals and is a particular threat to the viability of many of the Nation's small businesses;

Now, therefore, be it resolved that this advisory council recommends that the Senate Small Business Committee encourage Congress to:

(1) enact legislation embodying federal uniform professional and commercial liability standards retaining fault (not strict liability) as the standard of liability and specifically reforming tort doctrines in the area of joint and several liability and strongly discouraging frivolous lawsuits; and

(2) enact legislation introduced by Senator Metzenbaum, S. 1299, to limit the federal antitrust exemption provided to the insurance industry under the McCarran-Ferguson Act.

Mr. SMITH. Are there any other resolutions pending?

Ms. ABLAN. Yes, I have one. I think everyone got this. It's on the Prompt Pay Act Amendment of 1988. I know we didn't discuss this yesterday, but they handed this to me this morning.

Basically what it is doing, it is reinforcing the Senate bill 328. From this committee's standpoint, this is probably one of our greatest successes. It started here. What we are doing, in essence, is just reaffirming our commitment to the Prompt Pay Act.

It says:

The National Advisory Council of the Senate Committee on Small Business urges the swift and favorable consideration of S. 328, the "Prompt Payment Act Amendments of 1988", by the Committee on Government Operations, the U.S. House of Representatives, and the U.S. Senate, so that Recommendation 32 of the 1986 White House Conference on Small Business pertaining to improving the Prompt Payment Act of 1982, may be fulfilled before the close of this Congress.

Mr. SMITH. Thank you, Thelma.

Any other discussion?

Mr. HOPEWELL. We haven't discussed this before.

Mr. SMITH. That's correct.

Ms. ABLAN. Yes, that's right.

Mr. HOPEWELL. And is this a new act?

Ms. ABLAN. No, it is not.

Mr. HOPEWELL. I thought this came under Fred's and Mike's——

Mr. LEFKIADES. This was a prior resolution from a previous session which passed the Senate I understand, as John told me, but it has not passed the House yet. So, the point of reintroducing it is perhaps to induce the House that we really stand behind this and we reiterate it. That's the issue here.

Ms. MORROW. Also, Mr. Chairman, I think when we talk about Federal procurement, this certainly accompanies it because once you get a Government contract or you become a subcontractor, this can put you out of business. I mean, the lack of this can put you out of business. And we have seen several cases of people who had the contracts and were owed extensive amounts of monies and could not capitalize. And because of the lack of prompt payment, many businesses have been hurt. We had a case of a native American woman in Missouri who was just washed out as a result. So, I support this strongly.

Mr. LEFKIADES. Mr. Chairman, as most of you know, of course, profit and loss sometimes is not as important as cash-flow in a business. Cash-flow is the lifeblood that makes a business be able to exist and thrive. So, to have some Government or bureaucrat just choke off the life of you because of not paying promptly on a just bill, is absolutely critical. So, we want to reiterate and to emphasize that we really stand behind this. And that's the purpose of the introduction or the reintroduction of the resolution, really.

Ms. ABLAN. The other thing is that a lot of States have filed a suit on this in terms of their own State procurements. So, it is really enhancing the whole process all the way through.

Mr. SMITH. Tony.

Mr. WILKINSON. One thing I notice with some of the loan customers I have is that as the Government goes through its fiscal year end and into the new year, the payment process system dramatically falls off. From the first of Government fiscal year for the next 4 or 5 months, the payment process system takes twice as long as it does for the remainder of the year. And many of our customers for that 4-month window have to come in and borrow money simply because the Government slows down on the payments. So, to take this a step farther, if there is some way to smooth out the change in the fiscal year so that the payment system doesn't slow down, I think that would be tremendously helpful.

Mr. SMITH. Thank you.

Mr. DENNIS. We have an advisory committee in Massachusetts on minority business, and this is one of the major issues that we brought up because, again, many minorities do a lot of work with Government contracting. In the bill there are penalties and interest I think to be called for if payments aren't made within a certain period of time. The question is it ought to be more automatic because what happens is if you're dealing with the Government contract officers, you do not want to push the button on them to institute that penalty or interest because it's just not really a good business relationship. Let's put it that way. Somehow there ought to be something in that law that makes it automatic that you don't have to initiate that call for the penalty or interest. It's not the best way of doing business, really. And this is a major issue that was being discussed in Massachusetts, to have it be more automatic.

Mr. SMITH. Bill, would you want to discuss that?

Mr. MONTALTO. Yes. I am Bill Montalto, the Procurement Policy counsel to the Committee.

S. 328, in fact, addresses the very point you suggest. It requires, explicitly, that the payment of late payment interest penalties be made without demand being made by the contractor. They are to be made automatically. If the agency attempts to stiff the contractor, the bill provides for doubling of the interest under certain circumstances.

Mr. SMITH. Thank you.

Further discussion?

[No response.]

Mr. SMITH. We'll put it to a vote. Those in favor of this resolution, say aye.

[Chorus of ayes.]

Mr. SMITH. Those opposed, the same.

[No response.]

Mr. SMITH. The resolution passes. Thank you, Thelma.

[Proposed resolution follows:]

RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON S. 328, THE "PROMPT PAYMENT ACT AMENDMENTS OF 1988"

Whereas, the National Advisory Council to the Senate Committee on Small Business adopted a resolution during its meeting on October 25, 1985, which called for oversight of the implementation of "Prompt Payment Act of 1982", Public Law 97-177, and the consideration of remedial legislation to eliminate the ambiguities and loopholes that were being used by various Federal agencies to frustrate the clear intent of the Congress in enacting this important small business legislation; and

Whereas, the 1986 White House Conference on Small Business adopted Resolution No. 32, from an overall issue agenda that exceeded 400 items, which specified improvements to the Prompt Payment Act of 1982, including extending its protections to contractors performing for the United States Postal Service and state and local government recipients of Federal grants, and called for the vigorous enforcement of such a strengthened Act; and

Whereas, the Committee on Small Business conducted oversight hearings on the Act's implementation that resulted in the introduction of S. 2479, the "Prompt Payment Amendments of 1986", by Senator Paul Trible with the support of the entire Committee, and the bill's passage by the Senate during the closing days of the 99th Congress; and

Whereas, S. 328, the "Prompt Payment Act Amendments of 1987", was introduced in the opening days of the 100th Congress by Senator Sasser, with 56 original cosponsors including Senator Trible as the principal cosponsor, to renew the effort to attain needed improvements to the Prompt Payments Act; and

Whereas, S. 328, having garnered 91 cosponsors, was passed by the Senate on October 9, 1987 by a vote of 86-0; and

Whereas, the Subcommittee on Legislation and National Security of the House Committee on Government Operations, after conducting its own oversight and legislative hearings and making use of the oversight hearing record of the House Committee on Small Business, reported its version S. 328, the "Prompt Payment Act Amendments of 1988", on April 27, 1988; and

Whereas, the "Prompt Payments Act Amendments of 1988" strengthens the Senate-passed bill, and extends the Prompt Payment Act's protections to contractors performing for state and local government recipients of Federal grants;

Now, therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business urges the swift and favorable consideration of S. 328, the "Prompt Payment Act Amendments of 1988", by the Committee on government Operations, the U.S. House of Representatives, and the United States Senate, so that Recommendation 32 of the 1986 White House Conference on Small Business, pertaining to improving the Prompt Payment Act of 1982, may be fulfilled before the close of the 100th Congress.

Mr. SMITH. Are there any other resolutions that haven't been brought before the council yet?

[No response.]

Mr. SMITH. Very good. Is there any other business we need to attend to?

Mr. BOWDEN. I would just like to commend Ed Smith on his efficiency perhaps in getting all these resolutions through. I don't know how he did it, but congratulations.

[Applause.]

Mr. LEFKIADES. I would also like to commend all the members who are here for the first time for their input, for their help. They have been tremendous. This is the best crop of recruits we have ever had, and they are very bright and articulate. And as a matter of fact, they have taken over this council. [Laughter.]

So, we can sit back and watch them.

Mr. SMITH. Laverne.

Ms. MORROW. My comment is back to being—we had the mandated health and we passed the resolution that had an amendment about coming back together and doing some other things.

Mr. FINE. No. A report is due by the end of the year, but there is no requirement we have to convene. It is just the committee——

Ms. MORROW. I'm saying who is the committee going to be comprised of. Do we need to deal with that? That's my question.

Mr. FINE. Yes, Laverne. We need to deal with the committee that will work together and send a written report by the yearend on our input on mandated health benefits, conform it to the needs of small business. And I would think that the Chairman should appoint that committee now.

Mr. SMITH. I personally think that ought to be a committee of the whole. I don't see any reason to restrict anyone from being a part of that meeting.

Ms. ABLAN. I second that.

Mr. FINE. If we're going to take action, let's have a committee that with named individuals will get together by telephone and correspondence so we have a functioning organization that can submit a report. If we just leave here with the committee of the whole, it is just going to mean no definitive type of operation.

Mr. DENNIS. Point of order. Could not the Chairman look at this process and we would charge him within 30 days to get back to us with a process to accomplish this task? I'm not sure that we can get the details done, but can we charge our Chairman with thinking about it over the next 30 days and come up with a process?

Mr. SMITH. That's fine. I will do so.

Are there other comments?

Ms. BYSTROM. I just have an idea I would like to share with you, and if you like the idea, it is something you can voluntarily go back to your States and do.

What we found in Minnesota last winter and last fall is it was real tough to get small business people to write letters and make phone calls. There was a little bit of apathy for some reason or another. And we had three issues that we wanted to deal with: Capital gains, minimum wage, and the taxpayers' bill of rights which was on the front burner at that time. I guess I initiated it, but I was wearing my hat of the Minnesota Chamber of Commerce Small Business Council.

What we did in November was we wrote up a petition or a resolution very similar to what we have here on those three issues. And because all of us, I'm sure, have infiltrated the various small business organizations in your States, what we did in the period of 2 weeks is we got 400 signatures on these petitions by calling, say, a staff of a chamber of commerce or a staff of a business association and asking them just to take the petitions to their various committee meetings and whatever. And as I said, in 2 weeks we generated a lot of signatures that we ended up sending on to Washington to our Congressmen, our whole delegation of Minnesota.

I think what I would like to do is just to reinforce, especially with our Senator who serves on this committee, some of these things. And I don't know if these are proprietary petitions, but I'm going to take the petitions, if it's OK, and go back to some of my small business contacts and association contacts and write these in petition form. In other words, just steal the resolutions and just write lines under it, and get some signatures and coincide the mailing of those signatures to when this report is published. I think that we represent a broader base than who we are just as individuals, and that way I feel I can go back to the small business com-

munity in Minnesota and say, hey, look what we have done. I mean, here's an entity that we can speak directly to the Senate.

So, I would just throw that out as a suggestion. It worked very well for us and was a very easy and very cheap way to generate 400 signatures on petitions. And the interesting thing is we used our small business network in our State, and everybody shared a little bit of responsibility. And we got NABO and the Minnesota Business League and all sorts of organizations that, when asked to pull together, did. So, I just share that as an idea of what you might want to consider when you go back to your States regarding the resolutions that we have just passed.

Mr. SMITH. Thank you, Marcia.

Yes, Freddie?

Ms. SAXON. I think that is an excellent idea, Marcia. And I would like to ask if when you get it together, you would share it with the rest of us so that we can use it.

Ms. BYSTROM. I will put these in petition form. Do I have the addresses of everybody? I'll be more than happy to just send a copy and you can just xerox them off.

Mr. SMITH. We'll take care of that.

Any other discussion?

Mr. BOWDEN. I have just one point——

Mr. SMITH. Yes, Herb.

Mr. BOWDEN [continuing]. Not while we still have it on the record if possible.

Mr. DENNIS. Are you going to deal with the subcommittee?

Mr. SMITH. I'll deal with the subcommittee at a later time when we can clear our heads of all that we have done over the last 2 days.

Mr. DENNIS. You're going to make that a committee of the whole. Right?

Mr. SMITH. I'm thinking very seriously toward that, but I think what we would do is either do it—how many would be interested in being on the committee. Let's look at it that way.

[Show of hands.]

Mr. SMITH. That's what? About eight or nine? Did you get that, Tracy? Raise your hands again so Tracy can get your names. The number is growing.

Mr. BALL. This is on the health issue, and it might involve another meeting. It might or might not. I guess it would be up to the group as far as getting that group together to discuss the health benefits issue.

Mr. SMITH. I think with this many people, we would need to get together.

Ms. SAXON. I think it is mandated benefits. We agreed that it would not just be health.

Mr. SMITH. Right. That's correct. Thank you.

Well, you have given me 15 minutes to give a short address. So, I would like to commend the Senate Small Business Committee for calling this meeting yesterday and today. I think this meeting has been very productive. The council has worked very, very hard. And even though we have dealt with 18 very solid, meaty resolutions, the council worked into the night hours last night working out

these resolutions so that we could get through this meeting in time. And I commend every member of this council for doing that.

I think this council is one that is very unique and that there is no other National Advisory Council to a Senate committee. And obviously we are very dedicated and very willing to work for the cause of small business.

Consequently, I further urge the Senate Small Business Committee to call another meeting preferably later this year so that we can return to the 2 meetings a year process that we had at one time. I think that would accomplish several things. One is to reduce the backlog of issues. A portion of our problem is that we haven't met in 2 years and there were so many issues that were of great concern to us. And if we could meet on a more frequent basis, we would be able to discuss fewer at a time and the Senate Small Business Committee I think, consequently, would be able to digest the resolutions that we sent up to them a lot easier.

And second, meeting more frequently would create a more active council. I know each of us are active in our own communities, otherwise we wouldn't be on this council. I think all of us are willing and ready and anxious to become a more effective advocate for small business as a group.

And I would like to say on the council's part to the Senators that we are ready to go to work. Just give us the opportunity.

Is there any other business?

Ms. ABLAN. Yes. While we are congratulating ourselves, when we went out to party last night, the staff did all the work, and I would really like to congratulate the staff on all their help because we couldn't have gotten through this without them.

[Applause.]

Mr. SMITH. Thank you. I appreciate your reminding me of that. It's so easy to do because they are always behind the scenes, and you don't see them. And they do their job so effectively. But everyone on the Senate Small Business Committee staff has been extremely helpful. When the council decided to come in an hour early this morning—and some people were an hour and 15 minutes early this morning—they did not hesitate but to say they would be here and be ready for us. And they have done a super job, and I commend them too.

There being no other business——

Mr. BOWDEN. I just have one thing I would like to mention just briefly, but it is something that has happened only in our State and it will spread if it is passed, and that is this Bradley bill, which some of you know is a very controversial thing. But if you really read it, it is so far-reaching, you can hardly believe it.

But it calls for turning over 7.2 million acres of the Black Hills in South Dakota back to Indian reservations, and it would involve 141,000 people living there. And it would give all rights to any kind

of overrides or additional severance taxes on homestead gold mines. It would include Rapid City, as written. It would include Ellsworth Air Force Base, and it is really kind of an ill-conceived bill.

I suppose from the standpoint of thinking it would do some good, it might be all right. But it certainly has the businesses in the western part of our State mighty upset because they don't know where they stand. They have huge investments in some of that area. I can give you a whole speech on it, but I prefer not to and you wouldn't want me to at this point.

They have included in that part of Wyoming, but to isolate it so they could go through it one time, the Wyoming territory has been backed out now.

We have our situation, like every State does, and we are reducing the numbers of people living in the Indian reservations and integrating them slowly into our economy. And we just feel it would be a disaster if this hits, but if it happens here, it is bound to happen in the same areas and all the way to Wisconsin and so on. It is just putting us back 50 to 100 years in progress.

Mr. SMITH. Thank you, Herb.

Anything else?

Mr. LANSING. Mr. Chairman, I move the adjournment.

Ms. ABLAN. Second.

Mr. SMITH. All those in favor of adjournment, say aye.

[Chorus of ayes.]

Mr. SMITH. All those opposed, the same.

[No response.]

Mr. SMITH. We are adjourned.

[Whereupon, at 11:50 a.m., the council was adjourned.]